

5.0 RIGHT TO PRIVACY, *COMMUNICATION, AND AMENDMENTS*

5.1 *RIGHT TO PRIVACY*

All adult members of both applicant and resident households are required to 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 resident information will not be released unless there is a signed release of information request from the applicant or resident.

5.2 *COMMUNICATION*

For the convenience of both the Housing Authority and applicant and resident families, the Housing Authority may exercise the option to conduct interviews in-person, by video conference, telephonic, or other methods due environmental hazards, public health and safety situations or declarations, weather conditions, or other situations as dictated.

5.3 *POLICY AND LEASE AMENDMENTS*

The Housing Authority will provide residents with at least a 30-day review and comment period prior to adopting any proposed policy and lease amendments. An amendment to the lease will require all adult residents to sign the adopted amendment by attending a special meeting scheduled by the property manager.

8.0 ELIGIBILITY FOR ADMISSION

8.1 INTRODUCTION

Applicants must meet **all** eligibility requirements **in order to receive housing assistance** for admission to public housing. **At a minimum, the applicant must: be a family (as defined in 24 CFR § 5.403); be income eligible; meet the net asset and property ownership restriction requirements;** meet citizenship/eligible immigrant criteria, provide documentation of valid Social Security numbers; and sign consent authorization documents. In addition to the eligibility criteria, families must also meet the Housing Authority's screening criteria.

8.2 ELIGIBILITY CRITERIA

A. Family Status.

A family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

1. A group of persons residing together **as follows:**

a. A family with or without children

Children temporarily absent from the home due to placement in foster care are considered family members. 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.

b. An elderly family, which is:

A family whose head, 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.

c. A near-elderly family, which is:

A family whose head, 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.

d. A disabled family, which is:

A family whose head, 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.

e. 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.

f. A remaining member of a resident family.

2. A single person, who may be:

(i) an elderly, near-elderly or displaced person, a person with disabilities, the remaining member of a resident family, or any other single person.

(ii) An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C 675(5)(H)) and is homeless or is at risk of becoming homeless at age 16 or older.

3. Head of households under the age of eighteen (18) shall be considered emancipated for purposes of entering into a lease agreement who:

a. Are married, whether residing within or away from their parent's household; or,

b. Enter into military service; or,

c. Have a court order declaring their emancipation.

The head of household shall submit documentation as proof of emancipation as outlined above. The emancipation status of individuals not falling into one of the above categories will be determined on a case-by-case basis.

B. Income Eligibility

1. To be eligible for admission, the family's annual income must be within the income limit set by HUD. This means the family income must fall in one of the following categories:

Low-Income	80% of area median income
Very Low-Income	50% of area median income
Extremely Low-Income	income does not exceed the higher of the Federal poverty level or 30% of area median income

2. The income limits above apply only at admission; however, the family income of applicants who become residents must not exceed the over-income limit, based on family size, for continued occupancy as described in Section 24.0.
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.
4. Income limit restrictions do not apply to families transferring within the Public Housing Program.

C. Citizenship/Eligibility Status

To be eligible, each member of the family must be a citizen, national, or a noncitizen 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)).

1. Family eligibility for assistance.
 - a. A family shall not be eligible for assistance unless every 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 13.5 for calculating rents under the noncitizen 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.

D. Social Security Number Disclosure/Documentation

To be eligible, all family members who are not exempt, including live-in-aids and foster children/adults, must provide a valid Social Security number and documentation to verify each Social Security number as described in Section 12.0. Applicants who are otherwise eligible, but do not provide documentation of Social Security numbers for each household member (except for non-contending), may retain their placement on the waiting list, but shall not be admitted as a participant of the Public Housing program until the Social Security number disclosure/documentation requirements are met.

1. If a household member under the age of 6 years is added to the applicant household within a 6-month period prior to the household's date of admission, the applicant may be admitted as a participant to the Public Housing program with the understanding that the applicant shall provide a complete and accurate Social Security number for the added household member, and the necessary verification documents, within 90 calendar days from the date of admission.
 - a. One additional 90-day extension shall be granted if the Housing Authority, at its discretion, determines that the applicant's failure to comply was due to unforeseen circumstances that were outside the applicant's control.
 - b. If, upon expiration of the provided time period, the applicant fails to provide the necessary Social Security documentation for the added household member, the Housing Authority must terminate tenancy .

Individuals who do not contend to have eligible immigration status (those who may be unlawfully present in the U.S.) and have not been assigned a Social Security number are exempt. These individuals in most instances would not be eligible for a Social Security number. Refer to Paragraph C of this Section.

An individual who previously declared to have eligible immigration or eligible citizenship status may not change his/her declaration to not contend to have eligible immigration status, nor may the head of household opt to remove a household member from the family composition, for the purpose of avoiding compliance with the Social Security number disclosure and documentation requirements or penalties associated with noncompliance of these requirements.

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. **Once all applicants and participants have signed and submitted a consent form on or after January 1, 2024, family members do not need to sign and submit subsequent consent forms at the next interim or regularly scheduled income examination, unless:**
 - a. **A person 18 years or older becomes a member of the family, that person must sign and submit a consent form, or**
 - b. **A family member turns 18 years of age, that person must sign and submit a consent form, or**
 - c. **As required by HUD or the Housing Authority in administrative instructions.**
2. The consent forms must contain, at a minimum, the following:
 - a. A provision authorizing HUD or the Housing Authority 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; and,
 - b. A provision authorizing HUD or the Housing Authority to verify with previous or current employers income information pertinent to the family's eligibility for or level of assistance; and,
 - 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; and,
 - d. **A provision authorizing the Housing Authority to obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the Housing Authority determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits; and,**
 - e. A statement that the authorization to release the information requested by the consent forms **will remain effective until the**

earliest of:

- (i) The rendering of a final adverse decision for an assistance applicant;
 - (ii) The cessation of a participant's eligibility for assistance from HUD and the Housing Authority; or,
 - (iii) The express revocation by the assistance applicant or recipient (or applicable family member) of the authorization, in a written notification to HUD.
- f. Refusal to sign, or revocation of, consent forms by an applicant or participant, or any member of the applicant's or participant's family will result in denial or termination of assistance or admission.

8.3 SUITABILITY

- A. Applicant families will be evaluated to determine whether, based on their behavior, such behavior could reasonably be expected to result in noncompliance with the public housing lease. The Housing Authority 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 residents, Housing Authority 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 Housing Authority will consider objective and reasonable aspects of the family's background, including the following:
- 1. History of meeting financial obligations, especially rent.

A former/current resident who applies owing a balance to a housing agency administering a HUD assisted rental program (refer to paragraph C.2 below) will be placed on the waiting **list** but will not be considered for housing until that balance is paid in full, regardless of whether that balance is a current receivable or has been written off.
 - 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 residents or staff or cause damage to the property.

Criminal activity is defined as: 1) a violation of Pennsylvania Criminal Code, the Criminal Code of the various other State and Commonwealth jurisdictions or those of a U.S. territory, protectorate or the District of Columbia, or 2) a violation of the Federal Crimes Code of the United States of America that results in a conviction by a criminal court having jurisdiction over the same.

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.
6. History of, or current, conduct caused by abuse of alcohol or drugs, and an indication that such conduct is likely to continue in a way that may interfere with the health, safety, or right to peaceful enjoyment by others.

- C. The Housing Authority will ask applicants to provide information demonstrating their ability to comply with the essential elements of the lease. The Housing Authority 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 and co-head.
2. A rental history check of all adult family members.

This includes direct contact with prior landlords through written and/or oral landlord references. The rental history check will also include checking HUD's Debts Owed to Public Housing Agencies and Terminations. This is a national repository of debts owed to Public Housing Agencies and adverse terminations of former participants of the following HUD rental assistance programs: i) Public Housing; ii) Housing Choice Voucher; iii) Section 8 Moderate Rehabilitation; and iv) Project-Based.

3. A criminal background check on all adult household members, including live in aides. This check will be made through State, local law enforcement or court records, the FBI's National Crime Information Center (NCIC), the Dru Sjodin National Sex Offender Database, and/or other databases that may be available.

Applicants must provide a complete list of all states in which any household member has resided.

4. A home visit. The home visit provides the opportunity for the family to demonstrate their ability to maintain their home in a safe and sanitary manner. This inspection considers cleanliness and care of rooms, appliances, and appurtenances. The inspection may also consider any evidence of criminal activity.
5. Professional opinions from social workers, parole and/or probation officers, and alcohol and drug abuse treatment facilities.

8.4 GROUNDS FOR DENIAL

The Housing Authority is not required or obligated to assist applicants or members of the applicant's household who:

- A. Do not meet any one or more of the eligibility criteria. If one member of the household does not meet the eligibility criteria, the entire household is considered ineligible. The remaining household members may re-apply with a new application, and a new date and time;
- B. Do not supply information or documentation required by the application process, **including refusal to provide, or revocation of, consent to access financial records;**
- 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 residents;
- 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 residents or staff or cause damage to the property.

I. Criminal Conduct in General

If not otherwise specified in this policy, a criminal conviction shall result in exclusion for a time equivalent to the maximum punishment legally imposable by a sentencing

court. This shall not hinge on the maximum sentence actually given by a sentencing court in any individual case.

Example: Applicant was sentenced on charges of Felony 2 Theft on February 1, 1980. The Court, pursuant to the Sentencing Code, sentences applicant to 2 – 5 years in prison. The maximum punishment for a Felony 2 is 10 years. Therefore, the ban for applicant from Housing under this policy is ten (10) years. (Feb 1, 1980 to February 31, 1990, inclusive).

The maximum punishments for crimes pursuant to this section of the policy are as follows:

Felony 1	20 years
Felony 2	10 years
Felony 3	7 years
Misdemeanor 1	5 years
Misdemeanor 2	2 years
Misdemeanor 3	1 year

Summary offenses are not subject to this policy, but may be subject of eviction proceedings pursuant to lease or program terms.

II. Driving While Intoxicated (DWI)

Driving While Intoxicated convictions have a different structure from others as they are punished at different levels based on blood alcohol content and/or number of prior convictions. Driving While Intoxicated (sometimes also referred to as Driving Under the Influence [DUI]) can be the following maximum punishments:

Misdemeanor 1	5 years
Misdemeanor 2	2 years
Ungraded Misdemeanor	6 months

It shall be determined from the record of conviction which level of offense applies and the ban shall be applied accordingly. If for any reason, the level cannot be determined from the record, the ban shall be 5 years.

III. Homicide

The killing of another person or unborn child as defined in Chapters 25 and 26 of Title 18, or any successor or additional criminal prohibition thereof shall be cause for a lifetime ban from housing eligibility under this policy, regardless of offense grade or level of intent.

IV. Drugs

Drug Possession is another section of banned criminal conduct. Much like DWI, many of these penalties increase based on the number of prior convictions. As such, they do not follow the general structure found in Section I, but rather consist of ungraded felonies and ungraded misdemeanors. Further complicating matters, there are numerous crimes, many of which are rarely charged, as they may rarely occur. Therefore, this policy will set forth the most common sections and also guidance for when encountering a rare section.

A. Most common offenses

780-113(a)(16) Possession of a controlled substance

1 year for 1st offense – 3 years for 2nd and subsequent offense

780-113(a)(30) Manufacture, Delivery or Possession With Intent to Deliver Controlled Substance

15 years for Schedule I or II narcotic

10 years for Methamphetamine, Cocaine, Marijuana over 1,000 pounds, etc.

5 years for any Schedule I, II or III substance not in the above two categories

3 years for a Schedule IV substance

1 year for a Schedule V substance

See 35 Pa. C.S.A. 780-113(a)(38(1.1)

780-113(a)(31) Possession of a Small Amount of Marijuana

No prohibition for admission. (May be subject to eviction under the lease or program terms.)

780-113(a)(32) Possession of Drug Paraphernalia

1 year

B. Other Convictions under Title 35

Convictions other than the above shall be determined by referring to the Title and applying a suspension equivalent to the maximum imprisonment allowed for violation of said provision. If it cannot be determined from the records what level of penalty applies for a conviction, it shall be determined that a Felony is a 15-year ban and a Misdemeanor a 3-year ban.

V. Other Criminal Convictions

Summary offenses are excepted from the policy due to their relatively minor nature

and length of punishment (90 days or less). They may, however, still be cause for eviction of residents or participants under lease or program terms, particularly if they are a result of conduct on Housing Authority property.

If there is any Crime in the Pennsylvania Code that does not fall in I – V above, the time of ineligibility will be determined by determining the maximum punishment of that crime and applying same as the prohibition.

VI. Jurisdictions Other Than Pennsylvania

- A. Other Non-Federal Jurisdictions. We will not attempt to list each criminal code from every other State, Commonwealth, Territory or the District of Columbia. Such an endeavor would make the policy unwieldy, even assuming convenient access to all laws. Should a conviction from another such jurisdiction come to issue, (a rarity in rural Western Pennsylvania), it will be determined, as much as possible, what Pennsylvania offense is equivalent. Then, the applicable ban for the Pennsylvania offense will be upheld without regard to whether it is lesser or greater than the penalty that could have resulted in another jurisdiction.
- B. Federal Criminal Convictions. It will be rare, but not impossible, for an applicant to have a Federal Conviction. Federal crimes have maximum punishments similar to the Commonwealth of Pennsylvania. The period of ineligibility will be equivalent to the maximum period of incarceration able to be imposed for the given offense by a Federal Sentencing Judge.

VII. Procedures

- A. Application and Determination Process. When determining the applicable ineligibility period, the employee shall use this policy as a guide. If the employee has a question or concern as to what the applicable period of ineligibility should be, said employee shall ask the Executive Director (or designee) for assistance. At the Executive Director's (or Designee's) discretion, the Solicitor for the Authority may be contacted to research any applicable law and render an opinion. The Solicitor shall render an opinion within five (5) business days.
- B. Appeal Process. If an applicant wishes to appeal any determination of ineligibility pursuant to this Policy, said appeal shall first be heard by a hearing officer appointed by the Executive Director. Said hearing officer shall hold a hearing at which the applicant shall appear. The applicant may obtain counsel, who shall also attend. The Solicitor for the Housing Authority shall present the case for the Authority. The hearing officer shall determine from the evidence presented the date of conviction, maximum penalty that could

be imposed and find therefrom the period of ineligibility.

Should an applicant wish to further appeal the hearing officer's decision, any such appeal shall be filed and heard in the Armstrong County Court of Common Pleas.

- 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 or terminated from assisted housing because of drug-related criminal activity involving the personal use or possession for personal use, and/or, the illegal manufacture, sale, distribution, or possession with the intent to manufacture, sell, distribute a controlled substance. The household may be admitted if the Housing Authority 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 or termination no longer exist (the criminal household member is imprisoned or deceased).
- K. Are currently engaged in the illegal use of a controlled substance or are abusing alcohol, or pattern of illegal use of a controlled substance or abuse of alcohol, in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. For purposes of this section, "currently engaged in" means the household member has engaged in the behavior within the past six (6) months. The Housing Authority may, but is not required to, waive this requirement if:
 - 1. The person demonstrates to the Housing Authority's satisfaction that the person is no longer engaging in drug-related criminal activity or abuse of alcohol;
 - 2. Has successfully completed a supervised drug or alcohol rehabilitation program;
 - 3. Has otherwise been rehabilitated successfully; or

4. Is participating in a supervised drug or alcohol rehabilitation program.
- L. Have engaged in or threatened abusive or violent behavior towards any Housing Authority staff member or residents;
- M. Have a household member who has been evicted or terminated from any assisted housing program within three (3) years of the projected date of admission for other than drug-related criminal activity;
- N. Fugitive felons, parole violators, and persons fleeing to avoid prosecution, custody or confinement for a crime, or attempt to commit a crime, that is a Felony under the laws of the jurisdiction from which the individual flees;
- O. Denied for Life: If any family member has been convicted of manufacturing or producing methamphetamine (speed) in a public housing development or in a Section 8 assisted property.
- P. Denied for Life: Admission is prohibited after June 25, 2001 if any household member is subject to a State lifetime sex offender registration requirement.

If an applicant's household includes an individual subject to State lifetime sex offender registration, the applicant will be offered the opportunity to remove that individual from the household and application. If the applicant family is unwilling to do so, admission must be denied for the entire applicant family.

Q. Must deny assistance if:

1. A family's net assets exceed \$100,000 (adjusted annually as noted in Appendix 10); or,
2. A family has a current ownership interest in, a legal right to reside in, and the effective legal authority to sell (based on the State or local laws of the jurisdiction where the property is located) real property that is suitable for occupancy by the family, except this real property restriction does not apply to:
 - a. Any property for which the family is receiving assistance under 24 CFR 982.260 (manufactured home) or under the Section 8 Homeownership Program;
 - b. Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;

- c. Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking; or,
 - d. Any family that is offering such property for sale.
- 3. A property will be considered suitable for occupancy unless the family demonstrates that it:
 - a. Does not meet the disability-related needs for all members of the family (e.g. physical requirements, need for additional bedrooms, proximity to accessible transportation, etc.);
 - b. It is not sufficient for the size of the family;
 - c. It is a hardship geographically for the family (e.g. distance or commuting time to work or school, etc.);
 - d. Is not safe because the physical condition of the property poses a risk to the family's health and safety;
 - e. Is not a property that the family may reside in under the State or local laws of the jurisdiction where the property is located.
- 4. Acceptable documentation under this paragraph Q shall be the family's certification.

Applicants denied for just cause may not be considered for housing for one (1) year from the date of their final denial letter (if an Informal Review was requested).

8.5 VIOLENCE AGAINST WOMEN ACT

This section shall implement provisions of the **Violence Against Women Act Reauthorization Act of 2022 (VAWA 2022)** regarding domestic violence, dating violence, sexual assault and stalking as defined **by Public Law 117-103** (see the Glossary for definition). Notwithstanding its title, VAWA is gender-neutral, and its protections are available to males who are victims of domestic violence, dating violence, sexual assault, or stalking as well as female victims of such violence.

A. Denial of Admission

Applicants shall not be denied admission because they are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, provided that they are otherwise qualified for admission.

This section does not limit the Housing Authority's authority to deny admission if:

1. It can show an actual and imminent threat to other residents, neighbors, guests, their employees, persons providing services to the development, or others if the applicant family is not denied admission.
2. The applicant has not provided the required eligibility and/or suitability information that is not premised on the act or acts of domestic violence, dating violence, sexual assault, or stalking in question against the applicant or a member of the applicant's household.
3. The applicant fails to provide requested documentation of the claimed victim status as outlined in Paragraph D below.

The Housing Authority shall not apply a more demanding standard to the victim of domestic violence than that applied to other applicants.

B. Mitigation of Disqualifying Information

When requested, in writing, by an applicant whose history includes incidents in which the applicant was a victim of domestic violence, dating violence, sexual assault, or stalking the Housing Authority shall take such information into account in mitigation of potentially disqualifying information, such as poor credit history or a negative reference from a previous landlord. If an admission denial is required by a federal statute, based on a particular disqualifying factor, the Housing Authority must comply with that statute even if the disqualifying factor is a direct result of domestic violence, dating violence, sexual assault, or stalking.

If the applicant requests such mitigating information to be taken into account, the Housing Authority shall be entitled to conduct inquiries as are necessary to verify the claimed history of domestic violence, dating violence, sexual assault, or stalking and its probable relevance to the potentially disqualifying information. Potentially disqualifying information shall not be disregarded or mitigated if the applicant household includes a perpetrator of a previous incident of domestic violence.

C. Actions Against a Perpetrator

The Housing Authority may deny admission to, or trespass a perpetrator from, its property. The victim shall take action to control or prevent the domestic violence, including, but not limited to:

1. Obtaining and enforcing a restraining or no contact order, or order for protection against the perpetrator;

2. Obtaining and enforcing a trespass against the perpetrator;
3. Preventing the delivery of the perpetrator's mail to the victim's unit;
4. Providing identifying information as required in Paragraph D below; and,
5. Other reasonable measures.

D. Documentation of Victim Status

In order to qualify for the protections implemented by VAWA, the Housing Authority shall request in writing that the incident(s) of actual or threatened domestic violence, dating violence, sexual assault, or stalking claimed by the applicant be documented. Documentation may be accomplished in one of the following ways:

1. By completing form HUD-5382, *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation* for each claimed incident. The form may be completed by the applicant or by someone acting on the applicant's behalf. The information the applicant shall provide includes, but is not limited to:
 - a. Name of perpetrator, physical and/or mailing address, and any other contact information such as telephone or facsimile number, and e-mail or internet address, only if it is safe to provide and is known to the victim; and,
 - b. The date, time, and description of the incident; or,
2. By providing documentation signed by the victim and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or mental health professional from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, in which the professional attests under penalty of perjury that he or she believes that the incident(s) in question occurred and meet the definitions provided at 24 CFR 5.2003; or,
3. By providing a Federal, State, tribal, territorial, local police, court, or administrative agency record describing the incident(s) in question.

E. Time to Submit Documentation

Documentation must be received within fourteen (14) business days after the date that the applicant received the Housing Authority's written request for documentation. During this period, no adverse actions shall be taken against the

applicant.

The receipt of conflicting information from more than one household member, each claiming to be the victim and naming one or more of the other household members as the perpetrator, the Housing Authority shall require third-party documentation be submitted within thirty (30) calendar days from the Housing Authority's request for third-party documentation, as explained in Paragraph D.2 and D.3 above, in order to resolve the conflict. The Housing Authority must honor any court order presented as it relates to certification under this Section.

Compliance with the certification requirement of this Section shall not alone be sufficient to constitute evidence of an unreasonable act or omission by the Housing Authority, and does not preempt any Federal, State, or local law that provides greater protection for victims.

F. Failure to Provide Verification

If the applicant does not provide the requested information within the outlined time-frame(s), or the documentation submitted does not meet certification criteria, none of the protections afforded under VAWA shall apply, and the Housing Authority shall deny admission based on disqualifying circumstances as outlined in Section 8.4.

A request for information shall be sent to the applicant via first-class mail, return receipt requested unless the applicant feels that the delivery of such mail may place the victim at risk. In this case, the victim may come into the Administrative Office to pick up any documents or forms. Other methods of delivery that do not place the victim at risk may be arranged on a case-by-case basis.

G. Confidentiality

All information, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, that is provided to the Housing Authority under this Section shall be retained in confidence, access shall be on a need-to-know basis, and shall not be entered into any shared database or provided to any related entity except to the extent that:

1. The victim requests or consents in writing to the disclosure on a time-limited basis;
2. The disclosure is required for use in an eviction or termination action; or,
3. The disclosure is otherwise required by applicable law.

VAWA does not limit the Housing Authority's duty to honor court orders about

access to or control of the property.

H. Communications

When communicating with applicants who have requested VAWA protections, the Housing Authority shall take precautions to avoid inadvertent disclosure of confidential information by requesting that the applicant submit in writing the acceptable methods of communication, such as via mail, voicemail, e-mail, telephone or other method as prescribed by the applicant.

I. Notification of Occupancy Rights

Applicants are notified of the rights afforded to victims of domestic violence, dating violence, sexual assault, or stalking under VAWA by providing form HUD-5380, *Notice of Occupancy Rights Under the Violence Against Women Act* to adult applicants no later than at the time of admission or denial.

8.6 INFORMAL REVIEW

- A. If the Housing Authority determines that an applicant does not meet the criteria for receiving public housing assistance, the Housing Authority 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 an informal review of the decision within ten (10) working days from the date of the determination letter. The informal review shall be conducted within thirty (30) calendar days after the receipt of the applicant's request for a review. The Housing Authority will describe how to obtain the informal review.

The informal review may be conducted by any person designated by the Housing Authority, 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 Housing Authority's decision. The Housing Authority must notify the applicant of the final decision within ten (10) calendar days after the informal review, including a brief statement of the reasons for the final decision.

- B. The participant family may request that the Housing Authority provide for an informal review 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. The participant family must make this request within thirty (30) calendar days of receipt of the Notice of Denial or Termination of Assistance, or within thirty (30) calendar days of receipt of the INS appeal decision.

For the participant families, the informal review process above will be utilized with the exception that the participant family will have up to thirty (30) calendar days of

receipt of the Notice of Denial or Termination of Assistance, or of the INS appeal decision.

11.0 INCOME, EXCLUSIONS FROM INCOME, AND DEDUCTIONS FROM INCOME

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

11.1 *CALCULATION OF INCOME*

- A. For initial occupancy and interim recertifications, the family's annual income will be estimated for the upcoming 12-month period.
- B. For annual recertifications, the family's annual income will be based on the 12-month period preceding the calculation of income, except where the Housing Authority uses the streamlined income determination as described in Section 12.9. In determining family income for the previous 12-month period, if the Housing Authority determines that the family's income during this period does not accurately reflect the family's current income, the income must be adjusted (5.609(c)(2)(ii) and (iii)).

11.2 *INCOME*

Annual income includes:

- A. All amounts not specifically excluded, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age; and,
- B. When the value of net family assets exceeds \$50,000 (adjusted annually as noted in Appendix 10) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate as determined by HUD.

11.3 *INCOME EXCLUSIONS*

Refer to the list of Income Exclusions at the end of this chapter.

Families whose income increases due to new employment or increased earnings of a family member, during or within six (6) months after receiving assistance, benefits or services under any State TANF or Welfare-To-Work program. TANF includes regular monthly income and/or services such as one-time payments, wage subsidies and transportation assistance, as long as the total amount over a six (6)-month period is at least \$500.

Effective January 1, 2017, once a family member is determined to be eligible for the Earned Income Disregard, the 24-calendar month period begins, even if the family member that initially qualified the family for the disregard discontinues employment. The Housing Authority shall no longer track employment stops and restarts.

During the first 12-calendar month period, all increased income resulting from the qualifying employment of the family member shall be excluded. After the first 12-calendar month period, 50 percent of any increase in income of such family member as a result of employment shall be excluded.

The Earned Income Disregard benefit is limited to a lifetime 24-calendar month period for the qualifying family member. At the end of the 24 months, the disregard ends regardless of how many months were “used”.

Families benefiting from, or becoming eligible for, the Earned Income Disregard prior to January 1, 2017 remain eligible to receive the benefit for 24 months over a 48-month period.

Disallowance of incremental increases in income as a result of employment only applies to calculation of rent after admission to the program. It does not apply in determination of income eligibility or income targeting.

In accordance with the HOTMA Final Rule published February 14, 2023, families participating in the Earned Income Disregard (EID) program as of December 31, 2023 will continue to be eligible for the full 24-month benefit. As of January 1, 2024, the program has been eliminated and no new families will be eligible for the disallowance.

The Housing Authority will not provide any additional exclusions from income except those already provided for by HUD.

11.4 DEDUCTIONS FROM ANNUAL INCOME

The following deductions will be made from annual income:

- A. \$480 for each dependent (adjusted annually as noted in Appendix 10);
- B. \$525 (adjusted annually as noted in Appendix 10) for any elderly family or disabled family;
- C. The sum of the following, to the extent the sum exceeds 10% of annual income:
 - 1. Unreimbursed health and medical expenses of any elderly family or disabled family; and,
 - 2. Unreimbursed reasonable attendant care and auxiliary apparatus expenses

for each member of the family who is a person with a disability, to the extent necessary to enable any member of the family (including the member who is a person with a disability) to be employed, but this allowance may not exceed the combined earned income received by family members who are eighteen (18) years of age or older who are able to work because of such attendant care or auxiliary apparatus; and

- D. Any child care expenses that are reasonable and necessary to enable a member of the family to be employed or to further his/her education.

11.5 *HARDSHIP EXEMPTION FOR UNREIMBURSED HEALTH AND MEDICAL CARE EXPENSES, REASONABLE ATTENDANT CARE AND AUXILIARY APPARATUS EXPENSES AND EXEMPTION TO CONTINUE CHILD CARE EXPENSE DEDUCTION*

Two categories of health and medical care hardship exemptions will be provided for families affected by the new 10% threshold as follows:

- A. Families eligible for and taking the unreimbursed health and medical care expenses (elderly and disabled families) and reasonable attendant care and auxiliary apparatus expenses deductions (families that include a person with disabilities) in effective prior to January 1, 2024, the exemption will be phased-in:
1. For the first 12-month period, the family will receive a deduction of their eligible expenses in excess of 5% of family annual income.
 2. For the second 12-month period, the family will receive a deduction of their eligible expenses in excess of 7.5% of family annual income.
 3. Beginning with the third 12-month period, the family will receive a deduction of their eligible expenses in excess of 10% of family annual income, unless the family qualifies for a new exemption under Section B below.
- B. Families that demonstrate that the family's health and medical care expenses or reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim recertification (as defined by the Housing Authority), will receive a deduction of their eligible expenses in excess of 5% of family annual income for up to 90 days.
- C. A family whose eligibility for a child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. To be eligible a family must:
1. Demonstrate to the Housing Authority's satisfaction that the family is unable to pay rent because of the loss of the child care expense deduction;

and,

2. That the child care expense is still necessary even though the family member is no longer employed or furthering his or her education.

The exemption will be effective for up to 90 days.

- D. PHA must define what constitutes a hardship under this section, including determining a family's inability to pay rent.
- E. Family's will be notified in writing of the change in determination of adjusted income and the family's rent resulting from a hardship exemption. The notice will include when the relief begins and expires.
- F. Hardship exemptions are either phased in or expire within 90 days, rather than at the next regular income recertification, or when the Housing Authority determines the relief is no longer necessary.

**11.6 FAMILY DISCLOSURE OF HUD NOTICE CONCERNING FAMILY INCOME –
COMPUTER MATCHING**

- A. If a resident receives a letter or notice from HUD concerning the amount or verification of family income, the letter shall be brought to the Housing Authority within thirty (30) days of receipt by the resident.
- B. The Housing Authority shall reconcile any difference between the amount reported by the resident to the Housing Authority for the match year and the amount listed in the HUD letter or notice. This shall be done as promptly as possible.
- C. After the reconciliation is complete, the Housing Authority shall adjust, if necessary, the resident's rent effective the first (1st) of the following month. In addition, if the resident had not previously reported the proper income, the Housing Authority shall do one of the following:
 1. Immediately collect the back rent due;
 2. Establish a repayment plan;
 3. Terminate the lease and evict for failure to report income; or,
 4. Terminate the lease, evict for failure to report income, and collect the back rent due.

11.7 COOPERATING WITH WELFARE AGENCIES

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

- A. To target assistance, benefits and services to families receiving housing assistance, to achieve self-sufficiency; and,
- B. To provide written verification to the Housing Authority concerning welfare benefits for families applying for, or receiving, housing assistance.

INCOME EXCLUSIONS LIST

- (1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.**
- (2) The following types of trust distributions:**
 - (i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):**
 - (A) Distributions of the principal or corpus of the trust; and**
 - (B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.**
 - (ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.**
- (3) Earned income of children under the 18 years of age.**
- (4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.**
- (5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.**
- (6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.**
- (7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.**
- (8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.**
- (9)(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and**
 - (ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.**
 - (A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from—**
 - (1) The Federal government;**
 - (2) A State, Tribe, or local government;**
 - (3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);**
 - (4) A business entity (such as corporation, general partnership, limited liability company, limited**

partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
(5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

- (1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;
- (2) Financial support provided to the student in the form of a fee for services performed (*e.g.*, a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section);
- (3) Gifts, including gifts from family or friends; or
- (4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student.

The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)(E) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

- (1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;
- (2) Expressly to assist a student with the costs of higher education; or
- (3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

- (i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or
- (ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and

income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government.

(11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

(12)(i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (*e.g.*, special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

(16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family’s assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family’s assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the **Federal Register** to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(i) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 ([7 U.S.C. 2017\(b\)](#));

(ii) Payments to volunteers under the Domestic Volunteer Service Act of 1973 ([42 U.S.C. 5044\(f\)\(1\), 5058](#));

(iii) Certain payments received under the Alaska Native Claims Settlement Act ([43 U.S.C. 1626\(c\)](#));

(iv) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes ([25 U.S.C. 459e](#));

(v) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program ([42 U.S.C. 8624\(f\)](#));

(vi) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, section 6);

(vii) The first \$2000 of per capita shares received from judgment funds awarded by the National Indian 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;

(viii) 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);

(ix) Payments received from programs funded under title V of the Older Americans Act of 1965 ([42 U.S.C. 3056g](#));

(x) 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.);

(xi) Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420, [25 U.S.C. 1728](#));

(xii) 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. 9858g](#));

(xiii) 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\(l\)](#));

(xiv) 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);

(xv) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 ([42 U.S.C. 12637\(d\)](#));

(xvi) Any allowance paid under the provisions of [38 U.S.C. 1833\(c\)](#) 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](#)).

(xvii) 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\(c\)](#));

(xviii) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 ([29 U.S.C. 2931\(a\)\(2\)](#));

(xix) 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);

(xx) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 ([25 U.S.C. 1774f\(b\)](#));

(xxi) 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));

(xxii) Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided 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;

(xxiii) 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](#));

(xxiv) 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\(h\)\(4\)](#));

(xxv) 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

(xxvi) 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\(d\)](#)).

(xxvii) The value of, contributions to, and distributions from an Achieving a Better Life Experience (ABLE) Act account of a designated beneficiary.

(23) Replacement housing “gap” payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (*e.g.*, wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family’s Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

- (i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and**
- (ii) Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.**

12.0 VERIFICATION

The Housing Authority 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 eighteen (18) years of age and older; Social Security numbers; and citizenship/eligible noncitizen 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 Social Security cards, Birth Certificates and other documents presented by the family, the INS SAVE approval code, and forms signed by the family.

Information will be verified in accordance with the following hierarchy:

- A. Upfront Income Verification (UIV)** using HUD's Enterprise Income Verification (EIV) system. (The EIV Income Report will be reviewed within 120 days of an applicant's admission to validate family-reported income);
- B. Upfront Income Verification (UIV)** using other non-HUD tools, such as The Work Number and state government databases;
- C. Written Third-party Verification** that is an original document generated by a third-party source, dated within a 60-day period preceding the recertification or request date, and is usually provided by the resident/applicant.

Acceptable documents 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/printouts, and unemployment benefit notices. Resident/Applicant-provided documents may be rejected if the document is not an original; has been altered, mutilated, or is not legible; or, appears to be forged or not authentic.

Written Third-party Verification is obtained to supplement EIV-reported income sources (except for SSA benefit information) and when EIV has no data; to supplement non-EIV reported income sources; when EIV-reported employment and income information is disputed and acceptable documentation to support the

dispute is not available.

- D. **Written Third-party Verification Form** is a standardized form used to collect information from a third-party source. These forms are never in the possession of the resident/applicant. This method of verification is to be used if written third-party documents as described in paragraph C above are not available or are rejected, when the resident/applicant is unable to provide acceptable documentation, or if the Housing Authority requires additional information such as, effective dates; pay rate and/or frequency; number of hours worked; etc.
- E. **Oral Third-party Verification** is done by contacting the income/expense source by telephone or in-person. This method of verification is used if a source does not respond to a Written Third-party Verification Form within (10) business days. If this method of verification is used, the file must contain the date and time of the contact with the third-party, name and telephone number of the person contacted, and the confirmed information.
- F. **Tenant Declaration** is to be used as a last resort when unable to obtain any type of third-party verification, **unless specifically permitted under HOTMA**. In this event, the resident/applicant submits an affidavit or notarized statement, and the file must contain documentation as to why third-party verification was not available.

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 Housing Authority will send a request form to the source along with a release form signed by the applicant/resident via first class mail.

General Eligibility Items:		
Item To Be Verified	3 rd Party Verification	Hand-Carried Verification
Social Security Number	Original document issued by the SSA or other federal/state/local government agency containing the name, SSN, along with other identifying information of the individual	Original Social Security Card issued by the SSA
Citizenship	N/A	Signed certification, voter's registration card, birth certificate, etc.
Eligible immigration status	INS SAVE confirmation number	INS card

General Eligibility Items (continued):		
Item To Be Verified	3rd Party Verification	Hand-Carried Verification
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 students, any document evidencing enrollment
Need for a live-in-aide	Letter from doctor or other professional knowledgeable of condition	N/A
Child care costs	Letter from care provider	Bills and receipts
Disability assistance expenses	Letter from suppliers, care givers, etc.	Bills and records or payment
Medical expenses	Letters from providers, Rx record from pharmacy, medical professional's letter stating assistance/companion animal is needed	Bills, receipts, records of payment, dates of trips, mileage log, receipts for fares and tolls

Value Of and Income From Assets (Also Refer to Section 12.10):		
Item To Be Verified	3rd Party Verification	Hand-Carried Verification
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 paper or from 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	Assessment, bluebook, etc.	Receipt for purchase, other evidence of worth
Cash value of life insurance policies	Letter from insurance company	Current statement
Assets disposed of for less than fair market value	N/A	Original receipt and receipt at disposition, other evidence of worth

Income (Also Refer to Section 12.9):		
Item To Be Verified	3rd Party Verification	Hand-Carried Verification
Earned Income	HUD's EIV system, other non-HUD system, letter or electronic report from employer	A Minimum of two (2) current and consecutive pay stubs
Self-employment	N/A	Tax return from prior year, books of accounts
Regular gifts and contributions	Letter from source, letter from organization receiving gift (i.e., if mother pays day care provider, the day care provider could so state)	Bank deposits, other similar evidence
Alimony or Child Support	Court order, letter from source, letter from Human Services	Record of deposits, divorce decree
Periodic payments (i.e., social security, welfare, pensions, worker's compensation, unemployment)	HUD's EIV system, other non-HUD system, letter or electronic reports from the source	Award letter, letter announcing change in amount of future payments
Training program participation	Letter from program provider indicating: enrollment or completion; if HUD-funded; if a Federal State, local government, or local program; if employment training; defined goals & objectives; supportive services; if payments are for out-of-pocket expenses incurred in order to participate in program; and date of 1 st job after program completion	Evidence of job start

12.3 VERIFICATION OF CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS

The citizenship/eligible noncitizen status of each family member regardless of age must be determined.

Prior to being admitted all citizens/nationals and eligible noncitizens 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, U.S. passport, military ID, or other appropriate documentation. All eligible noncitizens must also provide their original INS documentation, a copy of which will be placed in the applicant's file. The Housing Authority will verify their status through the INS SAVE system. If the INS SAVE system cannot confirm eligibility, the Housing Authority will mail information to the INS in order

that a manual check can be made of INS records.

Family members who do not choose to declare their citizen, national, or eligible noncitizen status must be listed on a statement of noneligible members and the head of the household must sign the list. Noncitizen students on student visas, though in the country legally, are not eligible to be admitted to public housing.

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 Housing Authority determines that a family member has knowingly permitted an ineligible noncitizen (other than any ineligible noncitizens 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 twenty-four (24) months from the date of eviction or termination.

12.4 VERIFICATION OF SOCIAL SECURITY NUMBERS

A. Initial Disclosure

Each resident, except those age 62 or older as of January 31, 2010 and whose initial determination of eligibility began before January 31, 2010 (senior exemption), must disclose a valid Social Security number and provide the documentation necessary to verify each individual Social Security number, if the resident has:

1. Not previously disclosed a Social Security number;
2. Previously disclosed a Social Security number that was determined invalid by HUD or the Social Security Administration; or,
3. Been issued a new Social Security number.

Residents subject to the disclosure requirements as described above must submit complete and accurate Social Security numbers and the necessary verification documents at the next interim or regularly scheduled recertification of family composition and/or income.

B. Subsequent Disclosure

Once Social Security numbers have been disclosed and verified, the following rules apply:

1. Addition of a new household member who is at least 6 years of age or under and has a Social Security number.

Resident must provide a complete and accurate Social Security number for the requested new household member and the necessary verification documents at:

- a. The time of the request; or,
- b. At the time of processing the interim recertification of family composition that includes the new household member.

If the family is unable to provide the required documentation, the new household member will not be added to the family composition until the family provides such documentation. The Housing Authority is not permitted to generate an ALT ID for the affected household member. Failure to provide the necessary documentation will result in termination of assistance, tenancy, or both as outlined in Paragraph C below.

2. Addition of a new household member who is under the age of 6 and has no Social Security number.

Resident must provide a complete and accurate Social Security number for the requested new household member and the necessary verification documents within 90 calendar days of the new member being added to the household.

One additional 90-day extension shall be granted if the Housing Authority, at its discretion, determines that the resident's failure to comply was due to unforeseen circumstances that were outside resident's control.

During the period the Housing Authority is awaiting documentation of the Social Security number, the new member will be included as part of the assisted household and will be entitled to all the benefits of being a household member. The Housing Authority is required to generate an ALT ID for the affected household member. If, upon expiration of the provided time period, the resident fails to provide the necessary Social Security number documentation, the Housing Authority must terminate assistance, tenancy, or both as outlined in Paragraph C below.

3. Assignment of a new Social Security number.

Resident must provide a complete and accurate Social Security number for the requested new household member and the necessary verification documents at:

- a. The time of receipt of the new Social Security number;
- b. The next interim or regularly scheduled recertification; or,
- c. Such earlier time as specified by the Housing Authority.

A resident who qualifies for the senior exemption is exempt from the Social Security requirements for all future income examinations, even if the senior moves to a new HUD-assisted property.

C. Termination of Assistance/Tenancy

The Housing Authority must terminate the assistance, tenancy, or both, of a resident and the resident's household if the resident does not meet the applicable Social Security disclosure, documentation, and verification requirements.

Termination may be deferred to provide the resident with an additional 90 calendar days to comply with the Social Security requirements, but only if the Housing Authority, at its discretion, determines that:

1. The failure to comply was due to unforeseen circumstances that were outside resident's control; and,
2. It is likely that the resident would be unable to comply by the deadline.

Failure to comply with the Social Security requirements by the deadline specified in Paragraph C will result in termination of assistance or tenancy, or both, of the resident and the resident's household.

12.5 TIMING OF VERIFICATION

Verification information must be dated within ninety (90) days of admission or recertification. If the verification is older than this, the source will be contacted and asked to provide information regarding any changes. May be extended up to one hundred twenty (120) days with phone verification.

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

12.6 FREQUENCY OF OBTAINING VERIFICATION

For each family member, citizenship/eligible noncitizen status will be verified only once. This verification will be obtained prior to admission. Prior to a new member joining the family, their citizenship/eligible noncitizen status will be verified.

Other information, including but not limited to, income, assets, deductions from income, family composition, and disability status will be verified at least once each year during the annual recertification process.

It is mandatory to use HUD's EIV system as a third-party verification source for:

- A. All new admissions (within 120 days of admission date);
- B. All annual certifications; and,
- C. All interim certifications of family income and/or composition.

12.7 VERIFICATION OF VICTIM STATUS

To qualify for the protections implemented by the Violence Against Women and Department of Justice Reauthorization Act of 2005, see the verification requirements outlined in Section 8.5(D).

12.8 VERIFICATION OF EXCLUDED INCOME

There are two types of excluded income: fully excluded and partially excluded. Each category has different verification requirements as detailed in the following paragraphs.

A. Fully Excluded Income

Income that is fully excluded means the entire amount qualifies to be excluded from the annual income determination, such as food stamps and income from a live-in-aide. The Housing Authority is **not required** to:

- 1. Verify the income in accordance with the HUD-prescribed verification hierarchy;
- 2. Document the tenant file why third-party verification was not available; and
- 3. Report the income in Section 7 of the form HUD-50058.

The Housing Authority may accept an applicant or tenant's self-certification as

verification.

B. Partially Excluded Income

Income that is partially excluded means that only a certain portion of the income reported by the family qualifies to be excluded, while the remainder must be included when determining the family's annual income, such as earnings in excess of \$480 for full-time students 18 years or older. The Housing Authority is required to:

1. Verify the income in accordance with the HUD-prescribed verification hierarchy and comply with all applicable regulations pertaining to the determination of annual income, and
2. Report the income in Section 7 of the form HUD-50058.

12.9 STREAMLINED DETERMINATION OF FIXED INCOME SOURCES FOR ANNUAL RECERTIFICATION

Effective January 1, 2017, for any family member with a fixed source of income, the income determination for each fixed-income source shall be conducted by applying the verified cost of living adjustment (COLA) or current rate of interest to the previously verified or adjusted income amount. Fixed-income includes periodic payments at reasonably predictable levels from one or more of the following sources:

1. Social Security, Supplemental Security Income (SSI), and Supplemental Security Disability Insurance (SSDI);
2. Federal, state, local, and private pension plans;
3. Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic payments; or,
4. Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

The COLA or current interest rate applicable to each source of fixed income must be obtained from a public source or from tenant-provided, third-party generated documentation. If no such verification is available, then third-party verification of the income amounts must be obtained.

Non-fixed sources of income remain subject to full income verification requirements. If a family member has both fixed and non-fixed sources of income, this streamlined income determination applies only to the fixed-income sources. Third-party verification of all

family income amounts must be obtained at least every 3 years.

Third-party verification of family income shall be obtained at admission to the Public Housing program, and whenever a family member is added to the household. At the next annual recertification following the addition of a family member with a fixed-income source, the Housing Authority may have to obtain third-party verification of all income amounts for that family member to keep all family members with fixed incomes on the same verification schedule.

12.10 STREAMLINED DETERMINATION OF ASSETS FOR RECERTIFICATION OF INCOME

Effective January 1, 2024, for the purposes of interim and annual recertifications of income, a family's declaration that has a combined value of net assets equal to or less than \$50,000 (annually adjusted as noted in Appendix 10) shall be acceptable verification, except that the Housing Authority must obtain third-party verifications of assets at least every 3 years. For each asset, the family's declaration must state:

1. The institution holding the asset (bank, broker, insurance company, etc.);
2. The type of asset (checking, savings, CD, bonds, insurance, property, etc.);
3. The cash value of the asset; and,
4. The expected income to be earned from each asset.

All family members 18 years of age and older are required to sign the family's declaration of total assets.

Third-party verification of family assets shall be obtained at admission to the Public Housing program and whenever a family member is added to the household.

13.0 DETERMINATION OF TOTAL TENANT PAYMENT AND TENANT RENT

13.1 FAMILY CHOICE

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

- A. Families who choose the flat rent will be required to go through the income recertification process **at least** every three (3) years.
- B. Families who choose the flat rent may request to have a recertification and return to the income-based formula 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-based formula method would be more financially feasible for the family.
- C. Families have only one (1) choice per year, except for financial hardship cases. In order for families to make informed choices about their rent options, the Housing Authority will provide them with the following information whenever they have to make rent decisions:
 - 1. The Housing Authority's policies on switching types of rent in case of financial hardship; and,
 - 2. The dollar amount of resident rent for the family under each option. If the family chose a flat rent for the previous year, the Housing Authority will provide the amount of income-based rent for the subsequent year only the year an annual reexamination is conducted or if the family specifically requests it and submits updated income information.

13.2 THE INCOME-BASED FORMULA METHOD

The total tenant payment is equal to the highest of:

- A. 30% of adjusted monthly income;

- B. 10% of gross monthly income;
- C. The welfare rent (if applicable); or,
- D. The \$50 minimum rent.

The family will pay the total tenant payment (TTP) less any applicable utility allowances.

13.3 MINIMUM RENT AND HARDSHIP EXEMPTION

The minimum rent will apply when A, B, and C above are all below \$50.

An exemption from payment of the minimum rent will be granted if the family is unable to pay the minimum rent due to a financial hardship. The financial hardship exemption only applies to the payment of minimum rent; therefore, if an exemption is granted, the total tenant payment reverts to the highest of: 30% of adjusted monthly income, 10% of gross monthly income, or the welfare rent (if applicable). A hardship exemption cannot be requested if the calculated total tenant payment is higher than the minimum rent.

A financial hardship includes the following situations:

- A. The family has lost eligibility for, or is awaiting an eligibility determination for, a Federal, State, or local assistance program;
- B. The family would be evicted as a result of applying the minimum rent requirement;
- C. The family's income has decreased because of changed circumstances, including loss of employment;
- D. A death in the family has occurred; or,
- E. Other circumstances determined by the Housing Authority or HUD.

Requests for an exemption from payment of the minimum rent must be submitted in writing to the Project Manager, and the family must provide documentation of the hardship it is claiming.

Upon receipt of the family's request for hardship exemption, the minimum rent requirement will be suspended beginning the first of the month following receipt of such request and will continue until the Housing Authority determines whether there is a qualifying financial hardship as outlined above, and whether the hardship is temporary or long-term.

If it is determined that there is no qualifying hardship, the minimum rent requirement is reinstated retroactively to the time of suspension. The family must pay the back minimum rent within thirty (30) days of the determination. The family's failure to pay the back minimum rent will be cause for termination of the lease for nonpayment of rent.

A hardship exemption will not be granted if the hardship is determined to be a temporary hardship, which is defined as not exceeding a ninety (90) day period beginning on the date of receipt of the family's request for a hardship exemption. The family will not be evicted for nonpayment of rent on the basis of a temporary hardship.

During this ninety (90) day period, the family must demonstrate that the financial hardship is long-term. If the family demonstrates that the financial hardship is a long-term hardship, the family will be retroactively exempt from the minimum rent requirement and the exemption will continue until the hardship no longer exists. Repayment of the minimum rent for the period of the long-term hardship will not be required. If the family cannot demonstrate a long-term financial hardship, an exemption will not be granted and a repayment agreement (not to exceed six (6) months) will be offered for any minimum rent not paid during the ninety (90) day period.

Long-term exemptions will require that the Housing Authority process an interim certification retroactive to the initial date of suspension. The resident will be required to report the status of the exemption on a quarterly basis. A long-term hardship exemption will end when the qualifying hardship no longer exists. For example:

- A. A change in income triggers an interim certification in which the total tenant payment now exceeds the minimum rent requirement of \$50;
- B. The hardship was granted due to loss of monthly income (\$70 in child support), and then the family begins receiving monthly income (of at least \$70) from another or the same source, the original hardship ends.

Determinations will be made in a timely manner and all documentation will be retained in the resident's file.

13.4 THE FLAT RENT

The Housing Authority has established flat rents for each public housing unit. In doing so, it considered the size and type of the unit, as well as its age, condition, amenities, services, location, rent comparables, and HUD Fair Market Rents. The amount of the flat rent will be reevaluated annually and adjustments applied if necessary. Adjustments will be effective with the annual recertification and a thirty (30)-day notice (for more information on flat rents, see Section 15.3).

Effective June 1, 2014 in accordance with Public Law 113-76, the Consolidated

Appropriations Act of 2014, the Housing Authority must set flat rent amounts at no less than eighty percent (80%) of the applicable Fair Market Rent (FMR) adjusted, if applicable, to account for reasonable utility costs. Any increase in a family's rental payment as a result of changes to the flat rent amount will be subject to an annual cap of thirty-five percent (35%) of the family's current rental payment. The Housing Authority is not required to lower the flat rent amounts to eighty percent (80%) of the applicable Fair Market Rent (FMR) in years when the Fair Market Rent (FMR) decreases from the previous year.

The new flat rental amount will apply to all new admissions effective October 1, 2014. For families currently paying a flat rent, the new flat rental amount will be offered at the next annual recertification effective on or after October 1, 2014. Flat rent amounts will be reviewed annually and revised if necessary no later than 90 days after the Department of Housing and Urban Development (HUD) issues new Fair Market Rents (FMR).

The Housing Authority will post the flat rents at each of the developments and at the administrative office, and are incorporated in this policy upon approval by the Board of Commissioners. Flat rents may be found in Appendix 2.

For families who are responsible for making utility payments directly to the utility company, the new flat rent amount will include an adjustment for reasonable utility costs. There is no additional utility allowance for families paying a flat rent.

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:

- 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.

If a mixed family qualifies for prorated assistance but decides not to accept it, or if the family has no eligible members, the family may be eligible for temporary deferral of termination of assistance to permit the family additional time for the orderly transition of some or all of its members to locate other affordable housing. Under this provision, the family receives full assistance. If assistance is granted under this provision prior to

November 29, 1996, it may last no longer than three (3) years. If granted after that date, the maximum period of time for assistance under the provision is eighteen (18) months. The Housing Authority will grant each family a period of six (6) months to find suitable affordable housing. If the family cannot find suitable affordable housing, the Housing Authority will provide additional search periods up to the maximum time allowable.

Suitable housing means housing that is not substandard and is of appropriate size for the family. Affordable housing means that it can be rented for an amount not exceeding the amount the family pays for rent, plus utilities, plus twenty-five percent (25%).

Effective January 1, 2017, the family's assistance is prorated in the following manner:

- A. 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. Family maximum rent is equal to the applicable flat rent for the unit size to be occupied by the family.
- C. 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. 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. 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. The mixed family total tenant payment is the maximum rent minus the amount of the eligible subsidy.
- G. Subtract any applicable utility allowance from the mixed family total tenant payment. The result of this calculation is the mixed family tenant rent.

When the mixed family's total tenant payment is greater than the maximum rent, the Housing Authority must use the total tenant payment as the mixed family total tenant payment.

13.6 UTILITY ALLOWANCE

The Housing Authority shall establish a utility allowance for all resident-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 Housing Authority uses an engineering-based methodology versus a consumption-based methodology. Allowances will be evaluated annually and will be adjusted if they have changed by ten percent (10%) or more.

The utility allowance will be subtracted from the family's income-based formula rent, TTP (total tenant payment), to determine the amount of the Tenant Rent. The Tenant Rent is the amount the family owes each month to the Housing Authority. 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 resident. Any savings resulting from utility costs below the amount of the allowance belongs to the resident.

Utility allowance revisions are effective January 1st of each year and applied to certifications effective on or after that date.

For families who are responsible for making utility payments directly to the utility company, the new flat rent amount will include an adjustment for reasonable utility costs. There is no additional utility allowance for families paying a flat rent.

13.7 PAYING RENT

Rent and other charges are due and payable on the first (1st) day of the month. As a safety measure, no cash will be accepted. In addition, no rental payments will be accepted at the Administrative Office.

If rental charges are not paid in full by the tenth (10th) of the month, a Notice to Terminate will be issued to the resident. In addition, a late charge as specified in the Resident Charge List, will be assessed to the resident. If rental charges are not paid within fourteen (14) days from the date of the Notice to Terminate, or after final disposition of a grievance review requested by the resident, whichever occurs later, a Notice to Vacate will be issued. The Notice to Vacate shall state that the resident is to vacate the premises within ten (10) days of the delivery of the Notice to Vacate. If the rental charges are not paid or a payment agreement executed, and the resident has not vacated the unit, a Landlord/Tenant Complaint will be filed with the local Magisterial Office.

If rent is paid by a personal check and the check is returned for insufficient funds, this shall be considered a non-payment of rent and will incur the late charge plus an

additional charge for processing costs. In addition, the Housing Authority may refuse to accept other payments by personal check.

14.0 CONTINUED OCCUPANCY

14.1 COMMUNITY SERVICE

In order to be eligible for continued occupancy, each adult family member must either:

- A. Contribute 8 hours per month of community service (not including political activities); or,
- B Participate in an economic self-sufficiency program for 8 hours per month; or,
- C. Perform 8 hours per month of combined activities as previously described, unless they are exempt from this requirement.

The required community service or self-sufficiency activity may be completed at 8 hours each month or aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual recertification.

14.2 EXEMPTIONS

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

- A. Family members who are 62 years of age or older.
- B. Family members who are blind or disabled as defined under 216(i)(1) or 1614 of the Social Security Act (42 U.S.C. Section 416(i)(1); Section 1382c), and who certifies that because of this disability, he or she is unable to comply with the community service requirements.
- C. Family members who are the primary care giver for someone who is blind or disabled as set forth in Paragraph B above.
- D. Family members who are engaged in work activities as defined in Section 407(d) of the Social Security Act (42 U.S.C. Section 607 (d)):
 - 1. Employment (30 hours per week), job-search;
 - 2. On-the-job training, vocational educational training (not to exceed 12 months), job-skills training, community service; and
 - 3. Education related to employment of an individual who has not received a high school diploma or certificate of equivalency (GED), satisfactory attendance in a course of study leading to a certificate of equivalency (GED).

- E. Family members who meet the requirements for being exempted from having to engage in a work activity 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, including a State-administered welfare-to-work program.
- F. Family members 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 State welfare program, including a State-administered Welfare-to-Work program and the Supplemental Nutrition Assistance Program (SNAP) and who are in compliance with that program.

Exemption status will be re-verified each year at the family's annual recertification. When a non-exempt person becomes exempt, it is his or her responsibility to report this to the Housing Authority and provide documentation to verify the exemption. When an exempt person becomes non-exempt, it is his or her responsibility to report this to the Housing Authority within 10 calendar days and will be required to comply with the Community Service requirement.

14.3 NOTIFICATION OF THE REQUIREMENT

The Housing Authority will identify all adult family members who are apparently not exempt from the community service requirement.

The Housing Authority 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. The Housing Authority shall verify such claims.

The notification will advise families that their community service obligation will begin upon the effective date of their first (1st) annual recertification on or after January 1, 2001. For families paying a flat rent, the obligation begins on the date their annual recertification would have been effective had an annual recertification 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 recertification.

14.4 VOLUNTEER OPPORTUNITIES

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

- A. Local public or nonprofit 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 or clothes closets distribution

donated goods;

- B. Non-profit organizations, such as Boy/Girl Scouts/Clubs; 4-H Clubs, Police Activities League, mentoring or education programs, Big Brothers/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 nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods or performing arts;
- E. PHA housing to improve ground or provide gardens (as long as such work does not alter the Authority's insurance coverage), or work through resident organizations to help other residents with problems, and serving on the Resident Advisory Board; and,
- F. Care for the children of other residents so parents may volunteer.

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 (administered through the Department of Labor), or other training programs;
- 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;
- F. English as a second language and/or English proficiency classes; and,
- G. Budgeting and credit counseling.

Community service does not include political activities.

14.5 THE PROCESS

Upon admission, or at the first (1st) annual reexamination on or after January 1, 2001 and at each annual reexamination thereafter, the Housing Authority will do the following:

- A. Provide a list of volunteer opportunities and information about obtaining suitable volunteer positions to the family members.
- B. Provide volunteer time sheet to the participating agency of the family member's choice. Instructions for the time sheet require a supervisor of that agency to complete, date, sign and return the form(s) directly to the Housing Authority.
- C. Sixty (60) days before the family's lease term expires, the Housing Authority will determine whether each non-exempt family member is in compliance with the community service requirement.

14.6 NOTIFICATION OF NON-COMPLIANCE WITH COMMUNITY SERVICE REQUIREMENT

The Housing Authority will notify any family found to be in noncompliance of the following:

- A. The family member(s) who has been determined to be in noncompliance;
- B. That the determination is subject to the grievance procedure; and
- C. That at the end of the twelve (12) month term the lease will not be renewed, unless:
 - 1. The head of household and any other noncompliant household member enters into a written agreement as prescribed by the Housing Authority; or,
 - 2. The family provides assurance satisfactory to the Housing Authority that the noncompliant household member no longer resides in the unit.

14.7 OPPORTUNITY FOR CURE

The Housing Authority will offer the family member(s) the opportunity to enter into an agreement prior to the anniversary of the lease. The agreement shall state that the family member(s) agrees to enter into a self-sufficiency program or to contribute to community service for as many hours as needed to comply with the requirement over the past twelve (12) month period. The cure shall occur over the twelve (12) month period beginning with the date of the agreement and the resident shall at the same time be in compliance with

the current year's community service requirement. The first hours a resident earns goes toward the current commitment until the current year's commitment is made, and then to the cure agreement hours. All other household members who are subject to the service requirement must be currently complying with the service requirement, or are no longer residing in the unit.

If any applicable family member does not accept the terms of the agreement, does not fulfill their obligation to participate in a self-sufficiency program, or falls behind in their obligation under the agreement to perform community service, the Housing Authority shall take action to terminate the lease.

14.8 PROHIBITION AGAINST REPLACEMENT OF AGENCY EMPLOYEES

In implementing the community service requirement, the Housing Authority 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.

14.9 OVER-INCOME FAMILIES

The Housing Opportunity Through Modernization Act (HOTMA) of 2016, **Final Rule effective March 16, 2023**, requires that after a family's income has exceeded the over-income limit for 24 consecutive months (grace period), a PHA must either terminate the family's tenancy or charge the family an alternative rent.

The Housing Authority has adopted a policy **that it will terminate the tenancy of over-income families.**

14.10 DETERMINATION OF THE OVER-INCOME LIMIT

The over-income limit is determined by multiplying the applicable Very-Low Income limit, based on family size (including foster adults, foster children and unborn children), by a factor of 2.4 (Appendix 10). Upon publication of the annual income limits by HUD, the Housing Authority will calculate new over-income limits that will be effective no later than 60 days after the new income limits are published. The over-income limit applies to all public housing families, including families receiving an earned income disregard.

14.11 WHEN FAMILY INCOME EXCEEDS THE OVER-INCOME LIMIT

When it is determined that a family's annual income (not adjusted) exceeds the over-income limit, either at annual or interim recertification, the Housing Authority shall:

- A. Provide written notice to the family of the over-income determination, no later

than 30 days after the income recertification, that the family has exceeded the over-income limit and continuing to exceed the over-income limit for a total of 24 consecutive months (grace period) will result in termination of tenancy.

During the grace period, the family will continue to be a public housing resident and will pay either the income-based rent or flat rent chosen at the most recent recertification. Mixed families will continue to pay the prorated rent.

- B. Conduct an income examination 12 months after the initial over-income determination unless the family's income fell below the over-income limit since the initial determination. If it is determined that the family has exceeded the over-income limit for 12 consecutive months the Housing Authority shall provide written notice of the over-income determination to the family, no later than 30 days after the income examination that led to the over-income determination, that the family has exceeded the over-income limit for 12 consecutive months and continuing to exceed the over-income limit for a total of 24 consecutive months (grace period) will result in termination of tenancy.
- C. Conduct an income examination 24 months after the initial over-income determination unless the family's income fell below the over-income limit since the 12-month determination. If it is determined that the family has exceeded the over-income limit for 24 consecutive months the Housing Authority shall provide written notice of the over-income determination to the family, no later than 30 days after the income examination that led to the over-income determination, that the family has exceeded the over-income limit for 24 consecutive months, and that:
 - 1. At the end of the 24-month grace period the lease shall convert to a month-to-month lease. The family will continue to be a public housing resident until their tenancy has been terminated.
 - 2. The family's tenancy will be terminated no later than 2 months after the notice provided in Section 24.2(C) above and in accordance with State and local laws.
 - 3. The family will continue to pay the chosen income-based rent, flat rent, or prorated rent for mixed families during the period before termination.
 - 4. In the period after the grace period ends but before the termination of tenancy the Housing Authority must conduct reexaminations of family income as otherwise required under 24 CFR 960.257. However, the resulting income determinations will not make the family eligible to remain in their public housing unit beyond the 2-month period described above.

- D. The family may dispute, in accordance with the Housing Authority's Grievance Procedure, the determination that they have exceeded the over-income limit.
- E. If, at any time during the consecutive 24-month period following the initial over-income determination, the family's income falls below the over-income limit, the family is entitled to a new 24 consecutive month period of being over-income and new notices as provided for under this Section 14.11 if it is later determined that the family's income again exceeds the over-income limit.

14.12 REPORTING

The Housing Authority shall submit to HUD annually the number of families residing in public housing with incomes exceeding the over-income limit and the number of families on the waiting list for admission to public housing communities as of December 31st of each year. Reports will be due by March 31st of each year.

15.0 RECERTIFICATIONS

At least annually, the Housing Authority will conduct a recertification of family income and circumstances. The results of the recertification determine: (1) the rent the family will pay, (2) whether the family is housed in the correct unit size, and (3) whether the family is eligible for continued occupancy **in accordance with Section 14 of this policy**.

15.1 GENERAL

The Housing Authority will send a notification letter to the family letting them know that it is time for their annual recertification and scheduling an appointment. At the appointment, the family can make their decision regarding which rent method, income-based rent or flat rent, they will choose. The letter also includes instructions permitting the family to reschedule the interview if necessary. The letter tells families who may need to make alternate arrangements due to a disability that they may contact staff to request an accommodation of their needs.

During the appointment, the Housing Authority 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.

15.2 MISSED APPOINTMENTS

If the family fails to respond to the letter and fails to attend the interview, a second letter will be mailed. The second letter will advise the family of a new date and time for the interview, allowing for the same considerations for rescheduling and accommodation as above. The letter will also advise the family that failure to attend the second scheduled interview will result in termination of the lease.

15.3 RENT CHOICE

- A. Each year at the time of the annual recertification, the family has the option of selecting a flat rent **or a** rent based on their income.
- B. Families who opt for the flat rent will be required to go through the income recertification process **at least every** three years.
- C. Families who opt for the flat rent may request to have a recertification and return to the income-based formula 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-based formula method would be more financially feasible for the family.

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

The opportunity to select the flat rent is available only once each year, at the annual recertification.

15.4 THE INCOME-BASED FORMULA METHOD

During the interview, the family will provide all information regarding income, assets, 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 Housing Authority 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 monthly income;
- B. 30% of adjusted monthly income;
- C. The welfare rent; or
- D. The minimum rent of \$50.

15.5 EFFECTIVE DATE OF RENT CHANGES FOR ANNUAL RECERTIFICATIONS

The new rent will be effective **the first day of the family's month of admission** upon a thirty **30-day** notice 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 thirty (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 recertification date.

If the family caused the delay, then any increase will be effective on the recertification

date. Any reduction will be effective the first of the month after the rent amount is determined.

15.6 INTERIM RECERTIFICATIONS

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

Families are required to report the following changes, **within 10 days of the occurrence**, to the Housing Authority between annual recertifications. If the family's rent is being determined under the income-based formula method, these changes **may** trigger an interim recertification. The family shall report changes **in family composition such as:**

- 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.
- C. An increase in **unearned** income that is a result of a change in the type and/or source of income.

New household members (other than the birth, adoption, or custody of a child) will not be added to the lease within the first six (6) months of a resident's admission to avoid concerns regarding the household's income- or occupancy-qualified status at admission. In order to add a household member other than through birth or adoption (including a live-in aide, **foster child, or foster adult**), 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 stating their income, assets, and all other information required of an applicant. The individual must comply with the Social Security number disclosure requirements described in Sections 8.0 and 12.0 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 Housing Authority will determine the eligibility/suitability 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-based formula method, and the family's annual income will be **reexamined** taking into account the circumstances of the new family member. The effective date of the new rent will be in accordance with paragraph 15.7 below.

When an assisted family breaks up, only one of the new families may continue to receive

assistance. The new family may make an application for assistance if the waiting list is open.

In the absence of a judicial decision or an agreement among the original family members, the Housing Authority will consider the following factors in determining which family will continue to receive assistance:

1. The interest of any minor children, including custody arrangements;
2. The interest of any ill, elderly, or disabled family members;
3. Any possible risks to family members as a result of domestic violence or criminal activity; and,
4. The recommendations of social service professionals.

Families are not required to, but may at any time, request an interim recertification based on a decrease in income or assets; an increase in allowable expenses, such as childcare or additional medical expenses; or other changes in family circumstances. **To determine the family's income for an interim recertification, the Housing Authority must estimate the income for the upcoming 12-month period. Interim recertifications will only be processed if the family reports the change and the family's estimated adjusted income will decrease by 10% (or lower amount established by HUD) or more. Interim recertifications will generally be completed within 30 days of the family's request.**

The Housing Authority has opted to not conduct interim recertifications for increases in earned income between annual recertifications. If, during the annual recertification period, the family's income decreases from the prior year, the family may be due an adjustment (§ 5.609(c)(2)). However, the Housing Authority is required to conduct interim recertifications for increases in unearned income when the family's estimated adjusted income will increase by 10% (or lower amount established by HUD) or more.

The Housing Authority will not process interim recertifications due to income increases in the 3 months prior to the effective date of the family's annual recertification; however, income decreases must still be processed.

For zero-income families, if an increase in a family's estimated adjusted income will increase by 10% (or lower amount established by HUD) or more, the Housing Authority must conduct an interim recertification. If the increase is entirely from unearned income, the Housing Authority must conduct an interim recertification, except in the 3 months prior to the effective date of the family's annual recertification. Zero-families may/will have their income reexamined every 90 days.

For over-income families in the period before their termination of tenancy,

recertifications must be conducted as otherwise required; however, the resulting income determination will not make the family eligible to remain as a public housing resident beyond the termination period.

15.7 EFFECTIVE DATE OF RENT CHANGES DUE TO INTERIM RECERTIFICATIONS

Residents will be notified ~~in~~ of any rent adjustments and such notice will state the effective date of the adjustment as follows:

1. Rent increases will be effective the **first day of the** month after **a 30-day advance notice** provided that the change was reported in accordance with **Section 15.6**.
2. Rent decreases will be effective the **first day of the** month after the **date of the action that caused the interim recertification (i.e. the first day of the month after the date of loss of employment)** provided that the change was reported in accordance with **Section 15.6**.

If the resident has misrepresented or failed to report a change **in accordance with Section 15.6**, then any rent increase will be made retroactive to the **first of the month following the date of the action resulting in the increased income**. Failure to report accurate information is cause for termination of the lease.

Changes resulting in a rent decrease, and not reported in accordance with Section 15.6 above, will be effective no later than the first of the month following completion of an interim recertification.

Families will not experience any adverse impact for failure to pay rent when there is a pending interim adjustment if the family has reported the income change in accordance with Section 15.6.

15.8 INCOME DETERMINATION ERRORS

When mistakes are made by the Housing Authority resulting in rent being erroneously decreased, the error must be corrected but the family will not be responsible for any repayment of rent. If the family was overcharged due to a rent calculation error, the Housing Authority will credit the family's account accordingly.

If the family provided inaccurate information resulting in an incorrect rent calculation, the family must repay the Housing Authority in full or enter into a repayment agreement in accordance with Section 19.0.

20.0 TERMINATION

20.1 TERMINATION BY RESIDENT

The resident may terminate the lease at any time upon submitting a thirty (30) day written notice. If the resident vacates prior to the end of the thirty (30) days, they will be responsible for rent through the end of the notice period. If the keys are returned after the thirty (30) day notice expires, rent will be charged up to and including the day the manager receives the keys. In the case of a death, rent is charged up to and including the day the keys are returned to the manager. If the resident submits a notice to vacate that is longer than thirty (30) days, and the resident returns the keys before that period expires, the resident will be responsible for rent through the end of the notice period.

20.2 TERMINATION BY THE HOUSING AUTHORITY

After January 1, 2001, the Housing Authority will not renew the lease of any family that is not in compliance with the community service requirement or an approved Agreement to Cure. If they do not voluntarily leave the property, eviction proceedings will begin.

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

- A. Nonpayment of rent or other charges;
- B. A history of late rental payments (four times in a six-month period);
- C. Failure to provide timely and accurate information regarding family composition, income and asset information, or other information related to eligibility or rent;
- D. Failure to allow inspection of the unit;
- E. Failure to maintain the unit in a safe and sanitary manner, or destruction of the property;
- F. Any violent criminal or drug-related activity on or off the premises. The manufacture of any controlled substance such as, methamphetamine, on the premises of the Housing Authority will result in immediate and permanent termination of tenancy;
- G. Any activity, including but not limited to disorderly behavior and alcohol abuse, that interferes with or disturbs the peaceful enjoyment of their neighbors;
- H. Failure to act in a cooperative manner with Housing Authority staff;

- I. Fleeing to avoid prosecution, 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;
- J. Violation of a condition of probation or parole under Federal or State law;
- K. Determination or discovery that a member of the assisted family is subject to State lifetime sex offender registration, or was erroneously admitted (the individual was subject to a lifetime registration requirement at admission and was admitted after June 25, 2001). The Resident family will be offered the opportunity to remove that individual from the household. If the Resident family is unwilling to do so, the Housing Authority shall pursue immediate termination of tenancy for the entire family.
- L. Non-compliance with the Smoke-Free Housing Policy **as amended effective January 1, 2024;**
- M. **Any adult family member's conviction of violent or drug-related criminal activity since the family's admission or last recertification;**
- N. **Exceeding the over-income limitation in accordance with Section 14.11 (implementation effective June 14, 2023) with termination commencing within 2 months after the family's over-income status has been determined;**
- O. **No longer meeting the restrictions on net assets and property ownership (implementation effective January 1, 2024) with termination commencing within 2 months after the family's annual or interim certification determining such status;**
- P. **Failure to provide, or revocation of, consent to access financial records (implementation effective January 1, 2024);**
- Q. Other good cause.

When terminating tenancy, notice will be issued to the resident including the date the tenancy will terminate, the reason for termination, advisement that if the resident remains in the unit on the specified termination date that court action may be pursued, and the resident's right to request a discussion with the Housing Authority regarding the termination. This notice shall be served by first class mail to the resident at the assisted unit and/or by delivering a copy to an adult family member in the unit. If no adult family member receives the notice, the notice may be served by placing it under, or affixing it to, the door of the assisted unit. The notice is deemed to have been received by the resident on the later of the date the first class letter is mailed or the date the notice is properly given by personal delivery.

The Housing Authority shall notify the U.S. Postal Service when an individual or family has been evicted for criminal activity in an attempt to keep the evicted individual(s) from returning to the property for the purpose of retrieving their mail.

20.3 PROTECTIONS UNDER VIOLENCE AGAINST WOMEN ACT

This section shall implement provisions of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA) and violence Against Women Reauthorization Act of 2013 (VAWA 2013) regarding domestic violence, dating violence, sexual assault and stalking as defined (see Glossary for definitions). Notwithstanding its title, VAWA is gender-neutral, and its protections are available to males who are victims of domestic violence, sexual assault, dating violence, or stalking as well as female victims of such violence. Guests, unassisted members, and live-in aides of the resident family are ineligible for VAWA protections.

A. Lease Termination/Eviction

1. An incident or incidents of actual or threatened domestic violence, sexual assault, dating violence, or stalking will not be a serious or repeated violation of the lease by the victim; and, shall not be good cause for terminating the tenancy or occupancy rights of the victim of such violence;
2. Criminal activity directly related to domestic violence, sexual assault, dating violence, or stalking engaged in by a member of the resident's household or any guest or other person under the resident's control shall not be cause for termination of tenancy or occupancy rights, if the resident or an affiliated individual of the resident is the victim or threatened victim of such violence.

This section does not prohibit the Housing Authority from terminating tenancy or occupancy rights:

1. For any violation of the lease unrelated to an incident(s) of domestic violence, dating violence, sexual assault, or stalking. However, the victim of such violence shall not be held to a more demanding standard than non-victims;
2. If it can show an actual and imminent threat to other residents, neighbors, guests, their employees, persons providing services to the development, or others if the victim's tenancy is not terminated.

When requested, in writing, a resident whose history includes incidents of domestic violence, dating violence, sexual assault, or stalking may ask that the Housing Authority consider mitigating circumstances before terminating tenancy, such as non- or late payment of rent or damages to the unit. The Housing Authority may, but shall not be obligated to, consider such information when terminating tenancy or

occupancy rights for non-violent lease violations. If a termination is required by a federal statute, based on a particular adverse event, the Housing Authority must comply with that statute even if the adverse event is a direct result of domestic violence, dating violence, sexual assault, or stalking.

If the resident makes such a request, the Housing Authority shall be entitled to conduct inquiries as are necessary to verify the victim's claim and its relevance to the termination of tenancy or occupancy rights. No consideration shall be given to mitigating circumstances if the resident household includes a perpetrator of a previous incident of domestic violence, dating violence, sexual assault, or stalking.

B. Lease Bifurcation

The Housing Authority may bifurcate a lease to evict or remove any individual who is a resident or lawful occupant, who engages in criminal acts of physical violence against family members or others without terminating tenancy or occupancy rights of, or otherwise penalizing, the victimized resident or lawful occupant.

If the removed resident or lawful occupant was the sole resident eligible to receive housing assistance, the Housing Authority shall provide any remaining resident a period of thirty (30) calendar days from the date of bifurcation of the lease with the opportunity to establish eligibility for housing assistance under the same program, another covered housing program, or find alternative housing.

When notified, the Housing Authority shall honor court orders addressing the rights of access to 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 members when the family breaks up.

C. Actions Against a Perpetrator

The Housing Authority may trespass a perpetrator from its property. The victim shall take action to control or prevent the domestic violence, dating violence, sexual assault, or stalking including, but not limited to:

1. Obtaining and enforcing a restraining or no contact order, or order for protection against the perpetrator;
2. Obtaining and enforcing a trespass against the perpetrator;
3. Preventing the delivery of the perpetrator's mail to the victim's unit;
4. Providing identifying information as required in Paragraph D below; and,

5. Other reasonable measures.

D. Documentation of Victim Status

In order to qualify for the protections implemented by VAWA, the Housing Authority shall request in writing that the incident(s) of actual or threatened domestic violence, sexual assault, dating violence, or stalking claimed by the resident or member of resident's household be documented. Documentation may be accomplished in one of the following ways:

1. By completing form HUD-5382, *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation* for each claimed incident. The form may be completed by the victim or by someone acting on the victim's behalf.

The information the victim shall provide includes, but is not limited to:

- a. Name of perpetrator, physical and/or mailing address, and any other contact information such as telephone or facsimile number, and e-mail or internet address, only if it is safe to provide and is known to the victim; and,
 - b. The date, time, and description of the incident; or,
2. By providing documentation signed by the victim and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or mental health professional from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, in which the professional attests under penalty of perjury that he or she believes that the incident(s) in question occurred and meet the definitions provided at 24 CFR 5.2003; or,
 3. By providing a Federal, State, tribal, territorial, local police, court, or administrative agency record describing the incident(s) in question.

E. Time to Submit Documentation

Documentation must be received within fourteen (14) business days after the date that the resident received the Housing Authority's written request for documentation. During this period, no adverse actions shall be taken against the resident or member of resident's household.

The receipt of conflicting information from more than one household member, each claiming to be the victim and naming one or more of the other household members

as the perpetrator, the Housing Authority shall require third-party documentation be submitted within thirty (30) calendar days from the Housing Authority's request for third-party documentation, as explained in Paragraph D.2 and D.3 above, in order to resolve the conflict. The Housing Authority must honor any court order presented as it relates to certification under this Section.

Compliance with the certification requirement of this Section shall not alone be sufficient to constitute evidence of an unreasonable act or omission by the Housing Authority, and does not preempt any Federal, State, or local law that provides greater protection for victims.

F. Failure to Provide Verification

If the resident does not provide the requested information within the outlined time-frame(s), or the documentation submitted does not meet certification criteria, none of the protections afforded under VAWA shall apply, and the Housing Authority shall terminate tenancy or occupancy rights based on any adverse actions considered lease violations as outlined in Section 20.2.

A request for information shall be sent to the victim via first-class mail, return receipt requested unless the victim feels that the delivery of such mail may place him/her at risk. In this case, the victim may come into the Administrative Office to pick up any documents or forms. Other methods of delivery that do not place the victim at risk may be arranged on a case-by-case basis.

G. Confidentiality

All information, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, that is provided to the Housing Authority under this Section shall be retained in confidence, access shall be on a need-to-know basis, and shall not be entered into any shared database or provided to any related entity except to the extent that:

1. The victim requests or consents to the disclosure in writing on a time-limited basis;
2. The disclosure is required for use in an eviction or termination action; or,
3. The disclosure is otherwise required by applicable law.

VAWA does not limit the Housing Authority's duty to honor court orders about access or control of the property.

H. Communications

When communicating with residents who have requested VAWA protections, the Housing Authority shall take precautions to avoid inadvertent disclosure of confidential information by requesting that the resident submit in writing the acceptable methods of communication, such as via mail, voicemail, e-mail, telephone or other method as prescribed by the resident.

I. Notification of Rights

Residents are notified of the rights afforded to victims of domestic violence, dating violence, sexual assault, or stalking under VAWA by providing form HUD-5380, *Notice of Occupancy Rights Under the Violence Against Women Act to each adult resident no later than December 16, 2017 AND with lease termination and eviction notices.*

20.4 ABANDONMENT

The Housing Authority will consider a unit to be abandoned when a resident has both fallen behind in rent and has clearly indicated by words or actions an intention not to continue living in the unit.

When a unit has been abandoned, the Housing Authority will take possession of the unit and remove any abandoned property. It will be stored in a reasonably secure place for thirty (30) days from the date the Housing Authority took possession. A notice will be mailed to the resident stating the date that the Housing Authority has taken possession of the unit, that the property is being stored for thirty (30) days, and how to make arrangements to obtain the stored property. If the Housing Authority does not have a new address for the resident, the notice will be mailed to the unit address so it can be forwarded by the post office.

If after the thirty (30) days the resident has not claimed the property, the Housing Authority will sell or dispose of the property at the resident's expense. Any money raised by the sale of the property will offset money owed by the family, such as back rent, damage charges, and the cost of storing and selling the property. If there is any money remaining and the family's forwarding address is known, the Housing Authority will mail it to the family. If the family's address is not known, the Housing Authority will keep it for the resident for one (1) year. If it is not claimed within that time, it belongs to the Housing Authority.

20.5 REFUND OF SECURITY DEPOSIT

After a family moves out, the Housing Authority will refund the security deposit within thirty (30) days and/or give the family a written statement of why all or part of the security deposit is being kept. The rental unit must be restored to the same conditions as when the family moved in, except for normal wear and tear. Security deposits will not be used to cover normal wear and tear or damage that existed when the family moved in.

The Housing Authority will be considered in compliance with the above if the required payment and/or statement are deposited in the U.S. mail with first class postage within thirty (30) days after the vacate date.

If State law requires the payment of interest on security deposits, it shall be complied with.

21.0 ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM

Effective January 31, 2010, housing agencies are required to use HUD's EIV system in its entirety: (i) as a third-party source to verify tenant employment and income information during mandatory recertifications of family composition and income, and (ii) to reduce administrative and subsidy payment errors. Failure to use the EIV system may result in the imposition of sanctions and/or the assessment of disallowed costs associated with any resulting incorrect subsidy or tenant rent calculations, or both.

21.1 GENERAL

The EIV system is a computer matching initiative between HUD, the Department of Health and Human Services (HHS), and the Social Security Administration (SSA). Data available in EIV is:

- A. Social Security Administration
 - 1. Social Security benefits
 - 2. Supplemental Security Income (SSI) benefits
 - 3. Dual Entitlement benefits
 - 4. Medicare premium information
 - 5. Disability status
- B. National Directory of New Hires (NDNH)
 - 1. New hires (W-4)
 - 2. Quarterly wages for federal and non-federal employees
 - 3. Quarterly unemployment compensation benefits

Tenant information is collected using form HUD-50058, *Family Report* and submitted to the Public and Indian Housing Information System (PIC). The tenant data is then uploaded to the EIV system, where a pre-screening of personal identifiers (social security number, last name and date of birth) is conducted prior to matching with the SSA and NDNH databases. Tenants who do not pass this pre-screening due to a missing or invalid personal identifier are not sent for the identity match.

21.2 CONSENT FOR THE RELEASE OF INFORMATION

- A. Applicants

The only EIV report applicable to applicants is the Existing Tenant Search, which does not require form HUD-9886, *Authorization for the Release of Information/Privacy Act Notice*.

B. Tenants

Before accessing the income reports in EIV for an individual, form HUD-9886 *Authorization for the Release of Information/Privacy Act Notice* must be on file. The forms must be signed and dated by:

1. Each adult member of a household, **at admission only**, regardless of whether or not **they have** income; **and**,
2. Within ten (10) business days of a family member's eighteenth birthday.

The form HUD-9886 **will remain effective until the earliest of: (i) The cessation of a participant's eligibility for assistance from HUD and the Housing Authority; or, (ii) The express revocation by the assistance applicant or recipient (or applicable family member) of the authorization, in a written notification to HUD.**

The form limits the Housing Authority from requesting information about a tenant to "within the last 5 years when the tenant received assistance".

C. Disclosing an individual's information to another person or entity

The Federal Privacy Act prohibits the disclosure of an individual's information to another person without the written consent of such individual. The EIV data of an adult household member may not be shared with another adult household member unless the individual has provided written consent to disclose such information. However, the Housing Authority is not prohibited from discussing with the head of household and showing the head of household how the household's income and rent were determined based on the total income reported and verified.

21.3 REPORTS

A. Income Reports

The Housing Authority will obtain income information from EIV (as listed in Section 21.1) at annual recertifications, when investigating a report of income not previously reported, to resolve a report of discrepancy of income, and to confirm/validate the family-reported income of new admissions.

The Housing Authority will obtain independent third-party verification to be used to compliment EIV data when:

1. The tenant disputes the EIV data;

2. The tenant is unable to provide acceptable and current income documentation;
3. There is incomplete EIV data for a tenant; or,
4. There is no EIV data for a tenant.

B. Income Discrepancy Report

At least quarterly, the Housing Authority will review and resolve any discrepancies in income as reported on the Income Discrepancy Report. This report lists households whose income reported in EIV is \$2,400 or more than the income reported by the family and transmitted to PIC on the form HUD-50058.

The Discrepancy Report will be printed and retained in the tenant file along with details on the resolution of the reported discrepancy, regardless of whether the discrepancy was found to be valid or invalid.

C. No Income Report

This report is a listing of tenants who passed the identity match, but no income information was received from the SSA or NDNH records. The Housing Authority will review this report at least quarterly.

D. New Hires Report

This report provides employment information on tenants who have started new jobs within the last six months and is updated monthly. The Housing Authority will review this report at least quarterly.

E. Verification Reports

1. Existing Tenant Search

The Housing Authority will use this report at the time of processing an application to determine if the applicant or any applicant household member is currently residing in another subsidized location.

2. Multiple Subsidy Report

The Housing Authority will use this report on a monthly basis to identify any household member, regardless of age, who may be receiving multiple rental subsidies.

3. Deceased Tenant Report

The Housing Authority will use this report on a monthly basis to identify any tenant who is participating in a rental assistance program and who is being reported by the SSA as deceased.

4. Identity Verification Reports

The Housing Authority will use these reports on a monthly basis to clear up any invalid, discrepant or missing information in the PIC database. There are two types of Identity Verification Reports:

a. Failed EIV Pre-Screening Report

This report provides a list of tenants who have invalid or missing personal identifiers (SSN, last name, DOB).

b. Failed Verification Report

This report provides a list of tenants who have invalid or missing personal identifiers and identifies deceased household members.

The Housing Authority will obtain third party documentation to support the tenant's personal identifiers and the accuracy of the information on form HUD-50058, and correct any discrepant information within thirty (30) calendar days so the tenant will be included in future identity matches. Tenant will have to contact the SSA to correct any inaccurate data in their databases if the personal identifiers are correct on form HUD-50058.

21.4 INVESTIGATING AND RESOLVING INCOME DISCREPANCIES

The Housing Authority will investigate and confirm possible discrepancies and errors by obtaining third party verification. No adverse action will be taken against a tenant based solely on the EIV data. The Housing Authority will discuss with the tenant the results of the third-party verification and make a determination of whether or not the tenant knowingly provided incomplete or inaccurate information. Where fraud is suspected, the Housing Authority may report the tenant to the HUD OIG Office of Investigation.

If the tenant has unreported or underreported his/her income, the Housing Authority will go back to the time the unreported or underreporting of income started, or as far back as it has retained documentation of family-reported income, and calculate the

difference between the rent the tenant was charged and the rent he/she should have been charged.

Tenants are obligated to reimburse the Housing Authority if they have been charged less rent than required by the rent formula due to underreporting or failure to report income. Repayment may be made in a lump sum, by entering into a repayment agreement, or a combination of both. Tenants who do not reimburse the Housing Authority will be terminated from the program. Tenants may also be required to repay funds to the Housing Authority due to a Civil action taken by the Housing Authority, or Court action as a result of an IG investigation. HUD does not authorize any amnesty or debt forgiveness programs.

21.5 RETENTION OF EIV DATA

Income reports obtained from EIV that are used as third-party verification, and any tenant provided documentation, or other third-party verification, will be retained in the tenant file for the term of tenancy plus three years after tenancy is terminated.

Once the retention period has expired, the data will be disposed of by burning, pulverizing, or shredding to prevent unauthorized access to the tenant's personal information.

21.6 SECURITY OF EIV DATA

The information in EIV is covered by the Privacy Act and may only be used for limited official purposes.

A. Official Purposes

1. Verifying income by the Housing Authority at the time of recertification.
2. Contract Administrators (CAs) and HUD staff for monitoring and oversight of the recertification process.
3. Independent Public Auditors (IPAs) when hired by the Housing Authority to perform a financial audit, for use in determining the Housing Authority's compliance with income, rent and subsidy calculations.

Restrictions on disclosure requirements for IPAs:

- a. Can only access EIV income information within hard copy files and only within the offices of the Housing Authority;
- b. Cannot transmit or transport EIV income information in any form;

- c. Cannot enter EIV income information on any portable media;
- d. Must sign non-disclosure oaths that EIV income information will be used only for the purpose of the audit; and,
- e. Cannot duplicate or re-disclose EIV income information to any unauthorized user.

B. Non-Official Purposes

- 1. Sharing information with governmental entities not involved in the recertification process used for HUD's assisted housing programs, such as the LIHTC, RHS Section 515 programs, Welfare Office, etc.
- 2. Service Coordinators, even if the tenant signs a release of information consent form authorizing the Service Coordinator to have access to their file.

Unauthorized disclosure will result in a felony conviction and fine up to \$5,000 or imprisonment up to five years, as well as civil damages. Unauthorized inspection will result in a misdemeanor penalty of up to \$1,000 and/or one year imprisonment, as well as civil damages.

21.7 RULES OF BEHAVIOR

A. Users with EIV system access

User must adhere to the Rules of Behavior signed at the time of requesting EIV access. The signed initial and current access authorization forms containing the Rules of Behavior must be kept on file, and upon request, made available to the entity monitoring EIV compliance.

B. Users without EIV system access

Individuals (Housing Authority staff, CAs, IPAs and service bureau staff) who do not have access to the EIV system, but who view or use EIV data/reports provided by authorized users in order to perform their job functions, must adhere to the Rules of Behavior, which must be kept on file and made available to the EIV compliance monitoring entity upon request.

21.8 SECURITY TRAINING

Users with EIV system access, as well as users without EIV system access, will attend

annual in-house security training and will also participate in HUD sponsored EIV training when available. In order to have access to the EIV system, users must complete any applicable online Security Awareness Training Questionnaires for assisted housing programs upon initial access to the system and as required by HUD thereafter.

All users will maintain EIV information in a confidential matter as prescribed in the Security Training and Housing Authority information security procedures.

21.9 INCORRECT EIV INFORMATION

Only the source or originator of EIV information can correct a data error in the EIV system. Once the data is corrected, HUD will obtain the updated information during the next computer matching process. Below are the procedures to follow regarding incorrect EIV information:

A. Employment and Wage information

The employer reports information to the local State Workforce Agency (SWA), who reports it to Health and Human Services' (HHS') National Directory of New Hires (HDNH) database.

If the tenant disputes information, the tenant has to contact the employer, in writing, to dispute the information and request that the employer correct the erroneous information. The tenant should also provide a copy of the correspondence to the Housing Authority. If employer resolution is not possible, the tenant has to contact the local SWA for assistance.

B. Unemployment information

Information originates from the State Workforce Agency (SWA).

If tenant disputes information, the tenant has to contact the SWA, in writing, to dispute the information and request that the SWA correct the erroneous information. The tenant should also provide a copy of the correspondence to the Housing Authority.

C. SS and SSI information

Information originates from the Social Security Administration (SSA).

If the tenant disputes information, the tenant has to contact the SSA at 800-772-1213, or visit the local office, and request that the SSA correct the erroneous information.

D. Debts Owed and Termination information

Information originates from a Public Housing Agency (PHA).

If a current/former tenant disputes information, the tenant has to contact the PHA who reported the information, in writing, to dispute the information and provide documentation to support the dispute. If the PHA determines that the disputed information is incorrect, the PHA will correct the information in the EIV database. Information may be disputed for a period of up to three (3) years from the end of participation date.

E. Identity Theft

Incorrect information in EIV may be a sign of identity theft. If a tenant suspects someone is using his/her social security number, s/he should:

1. Contact the SSA to ensure that their records are correct;
2. File a complaint with the local police department and/or Federal Trade Commission (FTC) at 877-438-4338, or visit the website at <http://www.ftc.gov/bcp/edu/microsites/idtheft/>; and,
3. Monitor their credit reports with the three (3) national credit reporting agencies as follows:
 - a. Equifax
P. O. Box 740241
Atlanta, GA 30374
Website: www.equifax.com
Phone: 800-685-1111
 - b. Experian
P. O. Box 2104
Allen, TX 75013
Website: www.experian.com
Phone: 888-397-3742
 - c. TransUnion
P. O. Box 6790
Fullerton, CA 92834
Website: www.transunion.com
Phone: 800-680-7289 or 800-888-4213

Tenants may request their credit report and place a fraud alert on their credit report with the agencies listed above at: www.annualcreditreport.com or by contacting the agency directly.

The tenant should also provide the Housing Authority with written documentation of the filed identity theft complaint.

22.0 SMOKE-FREE HOUSING POLICY – PUBLIC HOUSING

22.1 INTRODUCTION

According to the American Lung Association, cigarette smoking is the number one cause of preventable disease in the United States. The elderly and young populations, as well as individuals with chronic illnesses, are especially vulnerable to the adverse effects of smoking. This concern was addressed by the Family Smoking Prevention and Tobacco Control Act (P.L. 111-31) signed into law in June 2009. Because Environmental Tobacco Smoke (ETS) can migrate between units in multifamily housing, causing respiratory illness, heart disease, cancer, and other adverse health effects in neighboring families, the U.S. Department of Housing and Urban Development (HUD) has been encouraging Public Housing Agencies (PHA) to implement smoke-free housing policies (Notices PIH-2009-21 and PIH-2012-25). By reducing the public health risks associated with tobacco use, establishing a smoke-free housing environment will enhance the effectiveness of HUD and PHA efforts to provide increased public health protection for residents of public housing. Smoking is also the leading cause of fire-related injuries and deaths. Additionally, turnover costs are increased when apartments are vacated by smokers; therefore, implementing a smoke-free housing policy is a good approach for reducing maintenance costs.

On December 5, 2016, HUD issued a Final Rule at 24 CFR Parts 965 and 966 entitled *Instituting Smoke-Free Public Housing* that **requires** PHA administering a public housing program to implement a smoke-free housing policy no later than eighteen (18) months from the effective date of the final rule. Since the effective date of the final rule is February 3, 2017, all PHAs **must be in full compliance by July 30, 2018**.

22.2 PURPOSE

The Housing Authority of the County of Armstrong desires to improve the indoor air quality and safety of its residents and employees by mitigating (i) the irritation and known health effects of secondhand smoke; (ii) the increased risk of fire from smoking; (iii) the increased maintenance, cleaning, and redecorating costs from smoking; and (iv) the potential higher costs of fire insurance for non-smoke-free buildings.

Although not specifically covered under this final rule, this Smoke-Free Housing Policy shall also be applicable to the Section 8 New Construction Program (Balcony Towers) **House Rules in accordance with** HUD Notices H-2010-21 and H-2012-22.

22.3 IMPLEMENTATION

Effective July 1, 2018, all current residents, new admissions, guests, service providers, Housing Authority employees, and any other persons are not permitted to use any prohibited tobacco product in any restricted area in accordance with the following definitions:

A. Prohibited Tobacco Products

“Smoking” means inhaling, exhaling, burning, or carrying of any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or any form. “Smoking” also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form.

B. Restricted Areas

1. All apartments;
2. All interior areas of Housing Authority property, including but not limited to, hallways, stairwells, community rooms, laundry rooms, bathrooms, elevators, storage areas, offices, and other similar areas; and,
3. All outdoor areas within twenty-five (25) feet from housing and office buildings, including but not limited to, entrance ways, porches, balconies, and other similar areas.

C. Notification

The Housing Authority shall post “No Smoking” signage outside, inside, and in other appropriate areas of its housing complexes.

D. Lease Amendment

All residents will be required to sign a new Lease incorporating the Smoke-Free Housing Policy as amended herein. Refusal to sign the Lease will be considered a material breach of the Lease.

22.4 LEASE PROVISIONS AND HOUSE RULES

- #### **A. Resident Obligations**
- shall be expanded to assure that no resident, member of the resident’s household, guest, or any other person under the resident’s control engages in:

1. Any smoking of prohibited tobacco products in any restricted areas as defined **under Section 3 of this Policy** or in any other areas that have been designated as smoke-free by the Housing Authority.
- B. Residents shall inform their guests, service providers, and other persons under their control of the Housing Authority's Smoke-Free Housing Policy. Persons who do not comply with the Housing Authority's Smoke-Free Housing Policy shall be barred from property.
- C. **Violation of this Policy shall be considered a material breach of the Lease and House Rules and grounds for enforcement action, including but not limited to eviction. A resident who violates this Policy shall also be liable to the Housing Authority for the cost to repair the unit due to damage from smoke odors or residue.**
- D. Resident acknowledges that the Housing Authority's adoption of a smoke-free living environment, and the efforts to designate its housing complexes as smoke-free, do not make the Housing Authority or any of its managing agents the guarantor of Resident's health or of the smoke-free condition of the Resident's apartment and the common areas. The Housing Authority shall take reasonable steps to enforce the smoke-free terms of its leases and to make its housing complexes smoke-free. The Housing Authority is not required to take steps in response to smoking **in violation of this Policy** unless **the Housing Authority either has actual knowledge of the violation and the identity of the responsible person or has been given written notice of the violation.**
- E. Resident acknowledges that their commitments under this Smoke-Free Housing Policy are made to the other residents as well to the Housing Authority, meaning that a resident may sue another resident for an injunction to prohibit smoking or for damages, but does not have the right to evict another resident. Any suit between residents shall not create a presumption that the Housing Authority breached the Smoke-Free Housing Policy, Lease Addendum or House Rules. Nothing in this paragraph is to be taken as a grant of rights not already held by residents. This language is only intended to state that a resident may have rights to pursue a claim under applicable existing State or Federal laws.
- F. **Disclaimer.** Resident acknowledges that the Housing Authority's adoption of a smoke-free living environment and the efforts to designate its housing complexes smoke-free do not change the standard of care that the Housing Authority would have to a resident household or render buildings and premises designated as smoke-free any safer, more habitable, or improved in terms of air quality standards than any other rental premises. The Housing Authority specifically disclaims any implied or express warranties that the building, common areas, or resident's apartments will have any higher or improved air

quality standards than any other rental property. The Housing Authority cannot and does not warranty or promise that the rental premises or common areas will be free from secondhand smoke. Resident acknowledges that the Housing Authority's ability to police, monitor, or enforce its Smoke-Free Housing Policy is dependent in significant part on voluntary compliance by resident and resident's guests. Residents with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that the Housing Authority does not assume any higher duty of care to enforce this Smoke-Free Housing Policy than other landlord obligation under the Lease.

24.0 ANNUAL INFLATIONARY ADJUSTMENTS

In accordance with the Housing Opportunity Through Modernization Act (HOTMA) of 2016, Implementation of Section 102, 103, and 104 Final Rule published in the Federal Register on February 14, 2023 and effective January 1, 2024, HUD will apply annual inflationary adjustments to certain regulatory provisions. All regulatory provision adjustments shall be implemented without formal amendment of this Admissions and Continued Occupancy Policy and shall be documented in Appendix 11.

24.1 REGULATORY PROVISIONS SUBJECT TO ADJUSTMENT

Adjustments will be based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) and shall be effective January 1st of each year. The adjustments will be applied to the following provisions:

- A. The value cap on net family assets for imputing returns (5.609(a)(2) and (b)(1)) as described in Section 11.2(B).
- B. The mandatory deduction for elderly and disabled families (5.611(a)(2)) as described in Section 11.4(B).
- C. The restriction on net family assets (5.618(a)(1)(i)) as described in Sections 8.4(Q) and 20.2(O)
- D. The amount of net assets the Housing Authority may determine based on self-certification by a family (5.618(b)(1), 5.659(e), 960.259(c)(2) as described in Section 12.10
- E. The mandatory deduction for a dependent (5.611(a)(1), which is also used to calculate the income exclusion for earned income of dependent students (5.609(b)(14) and adoption Assistance payments (5.609(b)(15) as described in Section 11.4(A)

GLOSSARY

50058 Form: The HUD form that housing authorities are required to complete 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.

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

Actual & Imminent Threat: A physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. 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. The threat may be conveyed through words, gestures, actions, or other indicators.

Adjusted Income: The ~~annual~~ **annual** ~~old~~ income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit after making the mandatory deductions (as determined under § 5.611).

Adult: A household member who is 18 years or older or who is the head of the household, or spouse, or co-head.

Affiliated Individual: With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, resident, 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 families, disability expenses, and child care expenses for children under 13 years of age. Other allowances may be given at the discretion of the housing authority.

Alternative Non-Public Housing Rent: A monthly rent charged to non-public housing over-income families, allowed to remain in a public housing unit who have completed the 24-month grace period. The alternative rent is the higher of the Fair Market Rent or the amount of the monthly subsidy provided for the unit. (24 CFR 960.102)

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 twelve (12) month period following admission or annual recertification effective date; and
- C. Are not specifically excluded from annual income.

Annual Income also includes amounts derived (during the twelve (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)

As-Paid States: States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs. Currently, the four as-paid States are New Hampshire, New York, Oregon, and Vermont.

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 housing program.

Bifurcate: 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.

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))

Child Care Expenses: Amounts anticipated to be paid by the family for the care of children under thirteen (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 child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income. (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 part 960.102(b), lease provisions cover the tenant, any member of the tenant's household, a guest or another person under the tenant's control.

Day Laborer: An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future. (24 CFR 5.603)

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:
 - 1. The length of the relationship,
 - 2. The type of relationship,
 - 3. 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.

De Minimis Errors: An error where the PHA determination of family income varies from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income). A PHA will not be considered out of compliance with § 960.257 solely due to de minimis errors but it still obligated to correct the errors. (24 CFR 960.257)

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

Dependent: A member of the family (other than the head of household, spouse, sole member, foster child or adult, or live-in aide) who is under 18 years of age, or is a person who is eighteen (18) years of age or older and is disabled, handicapped, or is a full-time

student. (24 CFR 5.603)

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, 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 committed by a current or former spouse or intimate partner of the victim **under the domestic or family violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person with who:**

- A. Is a current or former spouse or intimate partner of the victim;**
- B. Is cohabiting with or has cohabited with the victim as a spouse or intimate partner;**
- C. Shares a child in common with the victim; or**
- D. Commits acts against an adult or youth victim who is protected from those acts under the domestic or family violence laws of the jurisdiction.**

Drug-Related Criminal Activity: Drug trafficking or the illegal use, or possession for personal use, of a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802).

Earned Income: Income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits. (24 CFR 5.100)

Economic Abuse: In the context of domestic violence, dating violence, and use in later life, means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to:

- A. Restrict a person's access to money, assets, credit, or financial information;
- B. Unfairly use a person's economic resources, including money, assets, and credit, for one's own advantage; or
- C. Exert undue influence over a person's financial and economic behavior or decisions, including, forcing default on joint or other financial obligations, exploiting powers, of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interest of a person to whom one has a fiduciary duty.

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, co-head, spouse, or sole member is a person who is at least sixty-two (62) years of age, or disabled or handicapped as defined in this Section; two or more elderly, disabled, or handicapped persons living together; or one or more such persons living with one or more live-in aides. (24 CFR 5.403)

Elderly 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 sixty-two (62) years of age. (1937 Housing Act)

Exempt Individual: An adult family member who does not have to comply with the Community Service Requirements as determined by § 960.601.

Extremely low-income families: A very-low income family whose income does not exceed the higher of the Federal poverty level or 30% 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 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, the following group of persons—residing together regardless of actual or perceived sexual orientation, gender identity, or marital status:

- A. A family with or without children (a child who is temporarily away due to placement in foster care is considered a member of the family);
- B. An elderly family;
- C. A near-elderly family;
- D. A disabled family;
- E. A displaced family;
- F. The remaining member of a resident family; or
- G. A single person who may be:
 - (i) An elderly person, displaced person, disabled person, near-elderly person, ~~the~~ or any other single person;
 - (ii) An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C 675(5)(H)) and is homeless or is at risk of becoming homeless at age 16 or older. (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 established by the Housing Authority that the family may choose to pay in lieu of having their rent determined under the income-based method.

Foster Adult: A member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction. (24 CFR 5.603)

Foster Child: A member of the household who meets the definition of a foster child under State law. In general, a foster child is placed with the family by an authorized placement agency (e.g. public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction. (24 CFR 5.603)

Full-Time Student: A person who is attending school or vocational training on a full-time basis.

Gender Identity: Actual or perceived gender-related characteristics. (24 CFR 5.100)

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))

Health and Medical Care Expenses: Health and medical care expenses are any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body, not covered or reimbursed by insurance. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which income is computed.

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.

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 specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Income-Based Rent: A means of calculating a family's rent based on 10% of their monthly income, 30% of their adjusted monthly income, the welfare rent, or the minimum rent.

Independent Contractor: An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of work and not what will be done and how it will be done. (24 CFR 5.603)

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).

Interim (examination): A recertification of a family income, assets, expenses, and household composition conducted between the regular annual recertifications when a change in a household's circumstances warrants such a recertification.

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))

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.

Minor: A member of the family, other than the head of family or spouse, who is under 18 years of age. (24 CFR 5.603)

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 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 (1/12) of adjusted income. (24 CFR 5.603(d))

Monthly Income: One twelfth of (1/12) 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, co-head, spouse, or sole member is a person who is at least fifty (50) years of age but below the age of sixty-two (62); two or more persons, who are at least fifty (50) years of age but below the age of sixty-two (62), living together; or one or more such persons who are living with one or more live-in aides. (24 CFR 5.403(b))

Net Family Assets:

A. Net **family assets is the net** cash value **of all assets owned by the family**, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment

B. In determining net family assets, housing authorities or owners, as applicable, **must** include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received 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

C. if the applicant or resident receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

D. Excluded from the calculation of net family assets are:

- (i) The value of necessary items of personal property;
- (ii) The combined value of all non-necessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers);
- (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals;
- (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located;
- (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability;
- (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Service Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal State, or local government;
- (vii) Interests in Indian trust land;
- (viii) Equity in a manufactured home where the family receives assistance under 24 CFR 982;
- (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR 982;
- (x) Family Self-Sufficiency Accounts; and
- (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

D. In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value the trust fund is not included in the calculation of net family assets, so long as the fund continues to be held in trust that is not revocable by, or under the control of, any member of the family or household. (24 CFR 5.603)

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

Non-Public Housing Over-Income Family: A family whose income exceeds the over-

income limit for 24 consecutive months who remains in a public housing unit, as allowed by PHA policy, paying the alternative non-public housing rent. These families are no longer considered public housing participants. (24 CFR 960.102)

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.

Over-Income Family: A family whose income exceeds the over-income limit, including a family during the grace period or in the period before termination who are still public housing residents. (24 CFR 960.102)

Over-Income Limit: The over-income limit is determined by multiplying the applicable income limit for a very-low income (VLI) family, as defined in § 5.603(b), by a factor of 2.4 (120% of the AMI). (24 CFR 960.102)

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

Perpetrator: A person who commits an act of domestic violence, dating domestic violence, or stalking against a victim.

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; or,
- 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.

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

CFR5.520)

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 of 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)

Real Property: As used in this part has the same meaning as that provided under the law of the State in which the property is located. (24 CFR 5.100)

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

Remaining Member of a Resident 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. (Handbook 7565.1 REV-2, 3-5b.)

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 982), 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.

Seasonal Worker: An individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.

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

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

Sexual Orientation: Homosexuality, heterosexuality, or bisexuality. (24 CFR 5.100)

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 may qualify as an elderly, near-elderly or displaced person, a person with disabilities, the remaining member of a resident family, or any other single person. (24 CFR 5.403)

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 fear for the person's individual safety or the safety of others; or, 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)

Technological Abuse: An act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

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.

Resident: 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 the Housing Authority or owner supplies all utilities (except telephone and cable) and other essential housing services, tenant rent equals total tenant payment. Where some or all utilities (except telephone and cable) 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, assets, expenses, or household composition provided by a source outside the household.

Total Tenant Payment (TTP): The **highest of the following** amounts :

1. 30% of the family's monthly adjusted income;
2. 10% of the family's monthly income;
3. **If the family is receiving payments for welfare assistance from a public agency and a part of those 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 those payments which is so designated;**
4. **Minimum rent, as determined in accordance with § 5.630;**
5. **For public housing only, the alternative non-public housing rent, as determined in accordance with § 960.102.**

B. Total tenant payment for families residing in public housing does not include charges for excess utility consumption or other miscellaneous charges.

Unearned Income: Any annual income, as calculated under § 5.609, that is not earned income. (24 CFR 5.100)

Utility Allowance: If the cost of utilities (except telephone and cable) 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 the 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 Allowance 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)

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 areas if HUD finds that such variations are necessary because of unusually high or low family incomes.

Veteran: A person who served in the United States Armed Forces or the Pennsylvania Military Forces, and who was discharged or released under conditions other than dishonorable.

Victim: A person who is the recipient of acts of domestic violence, dating violence, or stalking as defined; and, who has timely and completely provided verification of such status.

Welfare Assistance: Welfare or other payments to families or individuals, based on need, that are made under programs funded by Federal, State or local governments. (24 CFR 5.603(d))

Welfare Rent: In “as-paid” welfare programs, the amount of the welfare benefit designated for shelter and utilities.

HOUSING AUTHORITY OF THE COUNTY OF ARMSTRONG

GRIEVANCE PROCEDURE

PURPOSE AND SCOPE

The purpose of this Grievance Procedure is to assure that Housing Authority residents are afforded an opportunity for a hearing, if the resident disputes within a reasonable time, any Authority action or failure to act, involving the resident's lease or with Authority regulations adversely affecting the individual resident's rights, duties, welfare or status.

Proposed changes to this grievance procedure shall provide for a thirty (30) day notice to afford residents and resident organizations with the opportunity to present written comments. Submitted comments shall be considered before finalizing any revisions to the grievance policy.

GOVERNING LAW

The law governing this grievance procedure is Section 6 (K) of the U.S. Housing Act of 1937 (42 U.S.C. §1437d and 3535(d), and subpart B of 24 CFR §966.4 and 966.52 – 966.57.

DEFINITIONS

The following definitions of terms shall be applicable to this grievance procedure:

- A. Grievance - Any dispute which a resident may have with respect to an action or a failure to act by the Authority in accordance with the individual resident's lease or Authority regulations, which adversely affects the individual resident's rights, duties, welfare or status.
- B. Complainant - Any resident (as defined in this section below) whose grievance is presented to the Authority in accordance with the requirements set forth in this procedure.
- C. Criminal Activity - Any illegal activity, including drug-related activity (defined as the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use a controlled substance, as defined in section 102 of the Controlled Substances Act as from time to time amended).
- D. Elements of Due Process - The following procedural safeguards are required to be followed in an eviction action or a termination of tenancy in a state or local court:
 - 1. Adequate notice to the resident of the grounds for terminating the tenancy and for eviction;

2. Right of the resident to be represented by counsel;
 3. Opportunity for the resident to refute the evidence presented by the Authority, including the right to confront and cross examine witnesses and to present an affirmative legal or equitable defense which the resident may have; and
 4. A decision on the merits.
- E. Hearing Officer - An impartial person or persons, other than the person who made or approved the decision under review, or a subordinate of that person selected to hear grievances and render decisions with respect thereto.
- F. Resident - Any adult person (or persons) other than a live-in aide:
1. Who resides in the unit and who executed the lease with the Authority as a resident of the dwelling unit, or, if no such person resides in the unit;
 2. Who resides in the unit, and who is the remaining head of the household of the resident family residing in the dwelling unit.
- G. Summary - Notice to the complainant after the informal settlement which specifies the names of the participants, the date of the meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and the procedures by which a formal hearing may be obtained if the resident is not satisfied.

INCORPORATION IN LEASE

This grievance procedure shall be incorporated by reference in all leases between the resident and the Authority and shall be furnished to residents and resident organizations upon request.

EXCEPTIONS

These procedures are applicable to all individual grievances, as defined in the Definitions section of this policy, between the resident and the Authority with the following exception:

- A. The grievance procedure is not applicable to disputes between residents not involving the Authority, or to class grievances. The procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the Authority's Board of Commissioners; and

PROCESSING GRIEVANCES

The primary objective of this process is to settle grievances at the lowest level and as quickly as possible, to minimize impact on both the resident and Authority operations. Except as stated in Paragraphs A and B above, the Authority's procedures shall afford each resident an opportunity for a hearing on a grievance, in accordance with the requirements, standards, and criteria contained in these procedures, with such modifications as are required by State law. The process for handling grievances is outlined below.

I. Informal Settlement of a Grievance

- A. The grievance shall be presented in writing to the complainant's Property Management office, so that the grievance may be discussed and settled without a formal hearing, if possible. This **notice must be received within seven (7) working days** after the grievable event.
- B. Upon receipt, the grievance shall be reviewed to be certain that it is not an exception to the grievance procedure as defined above. If one of the exceptions apply, the complainant shall be notified in writing that the matter raised is not subject to the grievance procedure and the reason for the exception. If the exceptions do not apply, the Authority shall schedule a meeting **within fifteen (15) working days** after receipt of the grievance, to discuss the matter with the complainant and/or his/her representative.
- C. A Summary of the discussion shall be prepared **within ten (10) working days** after the meeting, and one copy shall be delivered to the complainant and one copy shall be retained in the complainant's file.
- D. The Summary shall specify the names of the participants, the date of the meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and the procedures by which a formal hearing may be obtained if the complainant is not satisfied.
- E. Meetings may be rescheduled, at the request of the complainant, a maximum of two (2) times before a final informal settlement opportunity is offered. If the complainant fails to appear for the final scheduled meeting, the Authority shall make the determination that the party has waived his/her right to a hearing.

II. Procedure to obtain a Formal Hearing

- A. Request for a Hearing

If the complainant is dissatisfied with the informal settlement, the complainant shall submit a written request for a formal hearing to the complainant's Property

Management office **within seven (7) working days** after the date of the written Summary of Discussion.

1. The written request shall specify:
 - a. The reason(s) for the grievance, and;
 - b. The action or relief sought from the Authority.

B. Selection of a Hearing Officer

1. The hearing shall be conducted by an impartial person, or persons appointed by the Authority, other than a person who made or approved the Authority action under review, or a subordinate of such person.

C. Failure to Request a Hearing

1. Failure to request a hearing **within seven (7) working days** after the date of the written Summary of the informal settlement renders the Authority's decision final.
2. Failure to request a hearing shall not constitute a waiver by the complainant of his/her right to contest the Authority's decision in an appropriate judicial proceeding.

D. Hearing Prerequisite

1. All grievances shall be presented in writing pursuant to the informal procedure prescribed in the paragraph on Informal Settlement of Grievance, above, as a condition precedent to a hearing under this section.
2. If the complainant shows good cause why he/she failed to proceed in accordance with the paragraph on informal settlement, above, the provisions of this subsection may be waived by the Hearing Officer.

E. Scheduling Hearings

1. Upon compliance with the above requirements, a formal hearing shall be scheduled **within fifteen (15) working days** after the Authority's receipt of the complainant's request.
2. A written notification specifying the time, the place, and the procedures governing the hearing shall be delivered to the complainant and the appropriate official.

F. Procedures Governing the Hearing

1. Official

The review shall be held before a Hearing Officer.

2. Safeguards of Due Process

The complainant shall be afforded a fair hearing providing the basic safeguards of due process, which include:

- a. The opportunity to examine documents before the hearing, and at the expense of the complainant, to copy all documents, records and regulations of the Authority that are directly relevant to the hearing. Any requested document not made available to the complainant may not be relied upon by the Authority at the hearing.
- b. The right to be represented by counsel or other person chosen as the complainant's representative and to have such person make statements on the complainant's behalf.
- c. The right to a private hearing, unless the complainant requests a public hearing.
- d. The right to present evidence and arguments in support of the complainant's grievance to dispute evidence relied upon by the Authority, and to confront and cross examine all witnesses upon whose testimony or information the Authority relies.
- e. A decision based solely and exclusively upon the facts presented at the hearing.

G. Previous Decision

The Hearing Officer may render a decision without proceeding with the hearing if he/she determines that the issue has been previously decided in another proceeding.

H. Failure to Appear

- 1. If the complainant or the Authority fails to appear at a scheduled hearing, the Hearing Officer may make a determination to postpone the hearing for a period not to exceed five (5) working days, or may make a determination that the party has waived his/her right to a hearing.

2. Both the complainant and the Authority shall be notified of the Hearing Officer's determination.
3. A determination that the complainant has waived his/her right to a hearing shall not constitute a waiver of any right he/she may have to contest the Authority's disposition of the grievance in an appropriate judicial proceeding.

I. Entitlement and Justification

1. At the hearing, the complainant must first make a showing of entitlement to the relief sought.
2. Thereafter, the Authority must sustain the burden of justifying the Authority's action or failure to act against which the complaint is directed.

J. Conduct of the Hearing

1. Oral or documentary evidence pertinent to the facts and issues raised by the complainant may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.
2. The Hearing Officer shall require the Authority, the complainant, counsel, and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the Hearing Officer to obtain order may result in exclusion from the proceedings, a decision adverse to the interest of the disorderly party or denial of the relief sought, as appropriate.

K. Accommodation of Persons with Disabilities

The Authority will provide reasonable accommodations for persons with disabilities to participate in the hearing. Reasonable accommodations may include qualified sign language interpreters, readers, attendants, or accessible locations. If the complainant is visually impaired, any notice that is required by these procedures must be in an accessible format.

L. Decision, Reasons, Copies and Files

1. The Hearing Officer shall prepare a written decision, together with the reasons for the decision, **within ten (10) working days** after the hearing. A copy of the decision shall be delivered to the complainant.
2. The Authority shall retain a copy of the decision in the complainant's folder. The Authority shall maintain a log of decisions and make the log

available to the Hearing Officer, prospective complainants and their representatives. The log shall include: the date of the hearing decision, the general reason for the grievance hearing, and whether the decision was in the favor of the complainant or the Authority

3. The decision of the Hearing Officer shall be binding on the Authority unless the Authority's Board of Commissioners determines that:
 - a. The decision of the Hearing Officer is contrary to applicable Federal, State or local law, or HUD regulations or requirements of the Annual Contributions Contract between HUD and the Authority; or,
 - b. The grievance does not concern Authority action or failure to act in accordance with or involving the complainant's lease or Authority regulations, which adversely affect the complainant's rights, duties, welfare or status.

M. Judicial Proceedings

A decision by the Hearing Officer or the Authority's Board of Commissioners in favor of the Authority, or which denies the relief sought by the complainant in whole or in part shall not constitute a waiver of, nor affect in any way, the complainant's right to a trial or judicial review in any judicial proceedings, which may be brought in the matter later.

N. Authority Notices

Notices under this grievance procedure shall be deemed delivered:

1. Upon personal service to the complainant or an adult member of the complainant's household;
2. On the third day after the mailing of such notice, postage prepaid, by first class mail.

O. Concurrent Notice

If a resident has submitted a request for a grievance hearing in a case involving the Authority's notice of termination of tenancy, the complainant should be aware that the State law notice to vacate and the notice of termination of tenancy required under Federal law may run concurrently.

If the Hearing Officer upholds the Authority's action to terminate the tenancy, the Authority may commence an eviction action in court by the latter of:

1. The expiration of the date for termination of tenancy and vacation of premises stated in the delivered termination notice; or
2. The delivery of the Hearing Officer's decision to the complainant.

APPENDIX 10

ANNUAL INFLATIONARY ADJUSTMENTS AND OVER-INCOME LIMITS

[illegible]