



# **PUBLIC HOUSING AND COMMUNITY DEVELOPMENT**

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

**D R A F T**

**BCC Adopted Date:**

**Effective Date:**

*This material is available in accessible format upon request. Please call the ADA Coordinator at (786) 469-2155 (telephone) or Florida Relay Service (800) 955-8771 (TDD/TTY).*

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## **I. Program Administration**

### **A. Purpose of the Admissions and Continued Occupancy Policy (ACOP)**

The Admissions and Continued Occupancy Policy (ACOP) establishes written policies used by the Miami-Dade County Public Housing and Community Development (PPHCD) for all properties owned by Miami-Dade County. It is written in accordance with United States Department of Housing and Urban Development (HUD) regulations and addresses matters not covered under the HUD regulations that are instead left to local discretion for the Public Housing Program, as established by the United States Housing Act of 1937. The regulations that govern these programs are documented in Title 24 of the Code of Federal Regulations (CFR) Parts 5, 960, 966 and other applicable regulations promulgated by the HUD.

This ACOP is a supportive document to PHCD's Public Housing Agency (PHA) Plan. It shall be available for public review during regular office hours Monday through Friday at its main administrative office located at 701 NW 1st Court, 16<sup>th</sup> Floor, and at the Public Housing Site Offices.

PHCD Director, on behalf of PHCD, can make any necessary revisions to this ACOP, Public Housing Dwelling Lease (Lease), and Community Policies as may be required by regulatory, statutory, court order or internal policy that occurs before or during approval of the next presentation of the Public Housing Agency (PHA) Plan, which occurs annually.

### **B. Public Housing and Community Development (PHCD)**

PHCD is a public housing agency as defined in Section 35(f) of the United States Housing Act of 1937, and is the local governmental entity responsible for establishing affordable housing programs in Miami-Dade County (County), a political subdivision of the State of Florida. These programs include federally assisted housing programs that are administered through PHCD's housing department, PHCD or its successor agency or department. Although PPHCD has responsibility for all day-to-day operations of the Public Housing programs, revisions to this ACOP requires approval from the Miami-Dade Board of County Commissioners (the Board) and/or other authorized PHCD officials.

The administration of the Public Housing programs shall comply with all applicable Federal, State and local law, Public Housing regulations, handbooks, and policies promulgated by HUD, and other federal laws including: the United States Housing Act of 1937, as amended, the Fair Housing Act, as amended, the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, and Section 3 of the Housing and Urban Development Act of 1968, as amended.

For more information visit PHCD's website at [www.miamidade.gov/housing](http://www.miamidade.gov/housing)

### **C. Ann Marie Adker Consent Decree, et al v Miami-Dade County and HUD (Adker Decree).**

Notwithstanding the expiration of the Adker Decree on August 1, 2009, PHCD shall comply with the Board's Resolution No. R-1075-09 adopted on September 1, 2009.

Pursuant to that resolution, PHCD and all County departments that administer affordable housing programs shall:

- Ensure that the mandates of the Adker Decree of providing desegregative opportunities to all residents, participants and applicants of federally subsidized housing programs administered by PHCD are continued;
- Maintain the current Adker-related provisions in PHCD's Admissions and Continued Occupancy Policy and Section 8 Administrative Plan;
- The designated division within the Agency is responsible for ensuring compliance with the terms of Board's resolution; and
- Provide any reports required by the Board, the Mayor or the mayor's designee.

#### D. Voluntary Compliance Agreement

In March 2005, PHCD executed a Voluntary Compliance Agreement (VCA) with HUD that requires PHCD to construct or convert 478 public housing units and common areas to comply with the Uniform Accessibility Standards (UFAS), the Fair Housing Act and the Architecture Barriers Act. In January 2015, the VCA was amended to require PHCD to convert 459 units.

#### E. Fraud and Crime Control Program

PHCD investigates allegations of fraud and illegal activity committed by housing program applicants and residents, including family members on the Lease. Incidents of fraud or illegal activity may be reported to PPHCD's fraud hotline telephone number at 786-469-4105 or 786-469-4152 for other violations. All calls are confidential and callers will remain anonymous.

Miami-Dade County's Office of Inspector General (OIG) works in conjunction with PHCD to prevent and eliminate fraud and other criminal activities in PHCD housing programs. PHCD may refer cases to Miami-Dade County's OIG, or local law enforcement agencies with jurisdiction to investigate housing fraud, criminal and fraud cases for legal prosecution and collection of debt, if applicable. Miami-Dade County's OIG representatives will attend grievance hearings as required, when PHCD proposes to deny admission or terminate tenancy regarding cases they have investigated or prosecuted.

In an effort to maintain crime control in PHCD's public housing developments, each site AMP administrator or designee shall obtain a "no trespass" listing of people who have been terminated from the program as a result of drug, violent and non-violent criminal activities, including domestic violence. Such list is issued by local law enforcement or state attorney's office and may be updated with additional names as required by court stipulations. The list must be included in PHCD's shared drive and be posted in conspicuous places in each development.

#### F. Housing Opportunity Through Modernization Act (HOTMA) of 2016

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA that impact the public housing and Section 8 programs.

1. Sections 102 & 104: The Final Rule implementing broad changes to income and asset in Sections 102 and 104 of HOTMA.

- a) On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule; this was reissued on February 2, 2024, to provide revisions and further guidance.
- b) On December 17, 2024, HUD issued notice PIH 2024-38, which provided updated guidance to PHAs on compliance with HOTMA for income exclusions, definitions, and de minimis errors no later than July 1, 2025. HUD will not be enforcing compliance with any other provision by January 1, 2025. HUD will issue further guidance on the compliance deadline for all other provisions, when there is more information about when PHAs will be able to submit HOTMA-compliant HUD-50058 forms in HIP.

2. Section 103: The Final Rule implements an over-income provision for the public housing program officially published in the Federal Register on February 14, 2023.

PHCD has updated its policies throughout this ACOP to incorporate HOTMA requirements according to applicable guidance that is available as of the date of this ACOP.

PHCD will update this ACOP and its policies as needed to reflect any subsequent guidance released by HUD pertaining to HOTMA, the Final Rule, and other related regulatory requirements. PHCD will comply with the HOTMA Final Rule and all requirements.

#### G. Assistance to Limited English Proficiency (LEP) Persons

Limited English Proficient (LEP) persons do not speak English as their primary language and have a limited ability to read, write, or understand English at a level that allows the person to communicate effectively when applying or receiving services or benefits from agencies that are recipients of federal funds.

In accordance with HUD's *Final Guidance to Federal Assistant Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* (Final Guidance), PHCD is committed to ensure direct access to its program and activities to all applicants and program participants, regardless of the primary language they speak.

##### 1. Four (4) Factor Analysis

The LEP Final Guidance defines a self-assessment method to assist agencies receiving HUD funds in determining the extent of their obligations to LEP persons. PHCD has conducted the following four-factor self-assessment and concluded that Spanish and Creole are the most commonly spoken languages by the LEP population served by PHCD.

- a) The number or proportion of LEP person eligible to be served or likely to be encountered by the program or grantee (persons speaking a language other than English exceeds 5% or 1,000 persons, whichever is less);
- b) The frequency with which LEP persons come in contact with the program;
- c) The nature and importance of the program, activity, or service provided by the program to people's lives; and
- d) The resources available to PHCD and its costs.



## 2. Language Assistance Plan (LAP) and Safe Harbor

PHCD posts Spanish and Creole signs at its administrative and site management offices (public places) and on its website to inform LEP persons that free oral interpretation services and translation of vital PHCD's documents are available upon request. Additionally, applicants and program participants are informed of their ability to request an interpreter in all written PHCD's advertisements and notifications related to hearings, interviews, scheduled appointments, and adverse action notices.

### a) Staff Training

PHCD employees are provided with training on the LEP policy requirements, their role in assisting LEP persons, and with information on the resources available for LEP persons and how to access these resources.

### b) Oral Language Interpretation

PHCD utilizes bilingual staff members fluent in Spanish or Creole who provide oral language interpretation to LEP persons at face-to-face or telephone contacts, as needed. Also, oral language interpretation services may be provided for scheduled appointments, meetings, informal reviews, hearings and interviews, upon request five (5) business days in advance, from the Section 504/ADA Coordinator. The Section 504/ADA Coordinator secures oral translation services from approved vendors, according to PHCD's procurement procedures.

Language interpretation services are offered to LEP persons for activities including but not limited to the following:

- Eligibility Interview
- Voucher Briefing
- Rental Interview and Lease Signing
- Initial, Annual, and Interim Reexaminations
- Transfer and Resident Tenancy Application
- Reasonable Accommodation Requests
- Conferences, Informal Reviews and Hearings

PHCD staff is prohibited from requiring or asking LEP persons to bring their own interpreter. If a LEP person requests that an adult family member or friend (18 years of age or older) provide interpretation, this practice is acceptable only if it is their choice. The LEP person will be advised by PHCD staff about the availability of free language services.

### c) Written Language Translation of Vital Documents

HUD's Final Guidance defines vital documents as "those that are critical for ensuring meaningful access by beneficiaries or potential beneficiaries generally and LEP persons specifically." PHCD may use PHCD's translation services provided by the Community Information and Outreach (CIAO) Department, or a County vendor, to translate its vital documents and advertisements into Spanish and Creole.

PHCD has translated the following vital documents into Spanish and Creole. They are available in the shared drive, at H:\Compliance Reference Library\Forms - Agency Master Folders and must be provided to LEP persons upon request.

- Consent and complaint forms

- Intake forms with the potential for important consequences
- Written notices of rights, denial, loss, or decreases in benefits or services, and hearings
- Notices of termination of assistance and eviction
- Notices and forms related to the Violence Against Women Act (VAWA)
- Notices of advising LEP persons of free language assistance
- Notices of public hearings, especially those that meet Community Planning and Development's citizen participation requirements
- Public Housing Lease and tenant rules, and/or
- Applications to participate in a recipient's program or activity or to receive recipient benefits or services.

### 3. Monitoring and Updating

PHCD will periodically review and assess its LEP policy, based on Miami-Dade County's demographics and changes in HUD regulations.

## H. Mixed Finance Developments

From time to time, PHCD has and may continue to engage in mixed-finance development, which includes construction of new public housing and rehabilitation of existing County-owned public housing, as authorized by 24 CFR § 905.604, and other applicable laws and regulations. County-owned public housing properties may be leased to private developers through a long-term ground lease and other applicable mixed-finance agreements and documents.

The properties would then be managed by these private developers, or entities, rather than County. Notwithstanding any contrary provision within this ACOP, PHCD may delegate certain admissions and occupancy functions as discussed within the ACOP to entities and/or managers of those mixed-finance developments; provided, however, that such admissions and occupancy functions must be performed in accordance with this ACOP and applicable public housing requirements (including any deviations from the ACOP as permitted hereunder, as set forth in this section). Such delegation does not relieve PHCD from ultimate responsibility with respect to the foregoing.

PHCD acknowledges that such mixed-finance developments may be subject to federal Tax Credit Requirements. For purposes of this Policy, Tax Credit Requirements shall mean any and all matters required by Section 42 of the Internal Revenue Code of 1986 and regulations thereunder (Section 42), the rules promulgated by Florida Housing Finance Corporation (FHFC) or any agreement with a condition of receipt of tax credits, whether or not such requirement is explicitly stated in Section 42, or FHFC requirements.

Without limiting any other provision in this Subsection G, PHCD may also enter into one or more Memoranda of Understanding with the owner entities of such mixed-finance projects and/or third parties in order to comply with FHFC, HUD and PHCD requirements, and may adopt a limited preference for Special Needs Households (see Appendix I. – Definitions), as defined at Section 67-48.002(108) of the Florida Administrative Code (FAC), as may be amended from time to time, that may be referred by a Special Needs Household Referral Agency, as defined at in Section 67-48.002(109) of the FAC, such that 10% (which is subject to change in accordance with updated requirements) of the units of each mixed-finance development are occupied by such Special Needs Households to the extent required by FHFC, HUD and PHCD.

In order to facilitate compliance with Tax Credit Requirements, this ACOP shall be deemed amended with respect to any mixed finance development in order to conform to any provision herein to applicable Tax Credit Requirements, unless such policies are otherwise required by applicable public housing requirements. Examples of policies that may be different than what is set forth in the ACOP but that are nevertheless permissible under this section include, but are not limited to:

- the requirement for annual re-examinations (to the extent required by Tax Credit Requirements) and modifications to the tenant lease to conform with Tax Credit Requirements; and
- different income limits, income tiering requirements and rent limits consistent with what is permissible or required in accordance with Tax Credit Requirements.

Under this section, the entity will carry out screening and eligibility determinations with respect to such Tax Credit Requirements, including determinations related to transfers of new admissions from other public housing developments, new admissions and continued eligibility of existing residents. Notwithstanding anything herein to the contrary, any public housing resident who is eligible under applicable public housing requirements, but not eligible under Tax Credit Requirements shall be referred to PHCD by the Entity and will be re-housed by PHCD in accordance with the transfer provisions set forth in the ACOP.

PHCD further acknowledges that certain terms or requirements pertaining to the public housing units may be negotiated between PHCD and the entity of each mixed-finance development, such as income tiers and transformation remedies, and effectuated through the execution of the Declaration of Trust and Restrictive Covenants, the Regulatory and Operating Agreement, the Mixed Finance Annual Contributions Contract (ACC) Amendment and applicable management documents. Provided, however, that notwithstanding anything contained in those documents to the contrary, the applicable public housing requirements shall control.

As used herewith, the term “applicable public housing requirements” shall mean the following: the U.S. Housing Act of 1937, HUD regulations thereunder (and to the extent applicable, any HUD-approved waivers of regulatory requirements); any other federal laws, regulations, notices and Executive Orders pertaining to public housing; the ACC between HUD and PHCD (as amended by Mixed-Finance Amendments), this ACOP, and applicable tax credit management plans and agreements as those requirements may be waived or amended from time to time.

## II. Affirmative Marketing, Waiting List and Tenant Selection

### A. Affirmative Marketing

PHCD's marketing plan ensures inclusion on its waiting list of all people without regard to race, national or ethnic origin, color, sex, religion, age, disability, familial status, marital status, ancestry, status as a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, actual or perceived sexual orientation, gender identity or gender expression, pregnancy or source of income.

PHCD will give public notice in suitable media outlets including, but not limited to:

1. **The Miami Herald**, the largest paper of daily general circulation
2. **The Miami Times**, largest circulation among African-Americans
3. **Diario Las Americas**, a Spanish language publication
4. **The Haiti en March** or **Kiskeya Herald**, Haitian publications
5. Social media platforms and digital marketing (i.e., Facebook)
6. Radio broadcasts and other relevant media

The public notice will include, but will not be limited to, the following information:

1. The application process
2. Opening date
3. Closing date to receive applications, if any
4. Method for placement on the waiting list
5. Available preferences

### Outreach to Very-Low Income Families

PHCD must conduct outreach as necessary to ensure that PHCD has enough applicants on the waiting list.

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

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

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

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

Efforts will be taken to ensure outreach to Miami-Dade County's eligible population providing information of all opportunities to apply for program assistance. In order to reach the widest eligible population, the agency may use special outreach in any of the following methods:

- Notice to churches, synagogues, and other places of worship;
- Notice to government offices including but not limited to Miami-Dade County regional libraries, Miami-Dade County Community Action **and Human Services Department**, , Social Security Administration, State of Florida Department of Children and Families, Legal Services of Greater Miami, Inc., or other agencies designed to assist the low income community;
- Notice to agencies that assist the elderly or disabled;
- Announcement at public meetings; and
- Any other methods deemed appropriate to increase the scope of outreach for eligible applicants.

### **Marketing Material**

1. PHCD will use clear and easy to understand terms and distribute the notice in accordance with LEP requirements.
2. PHCD will contact agencies that serve potentially qualified applicants least likely to apply (e.g., the disabled) to ensure that accessible/504/ADA-adaptable units are offered to applicants who need these features.
3. PHCD will include a statement regarding its responsibility to provide reasonable accommodation to persons with a disability.

### **B. Waiting List Management**

#### **1. Public Housing**

- a) PHCD maintains one (1) waiting list for its Public Housing Program, which includes Assisted Living Facility, and the Mixed Finance Developments. This waiting list is administered by the Applicant Leasing Center (ALC), which is a unit of the Asset Management Division (AM) responsible for the operations of the Public Housing Program.

#### **2. Other Housing Programs**

- a) The Section 8 Housing Choice Voucher Program and the Section 8 Moderate Rehabilitation Program will maintain separate waiting lists for each of the programs. These waiting lists are administered by the Intake Unit of the Section 8 and Housing Choice Voucher Division. The Section 8 Administrative Plan contains the rules and regulations applicable to these programs.
- b) Homeless Pilot Program: In an effort to address the risk of homelessness, PHCD will collaborate with the Homeless Trust by implementing a pilot program and waiting list for referrals of persons transitioning out of a shelter, transitional housing program, rapid re-housing program or permanent supportive housing. The program will initially be limited to a maximum availability of 25 Public Housing units that may be expanded if the program is successful.
- c) The Homeless Trust will verify the individual's or family's homelessness before referring them as applicants to this program. Eligibility will be based on the admission criteria in Chapter III of this ACOP.

- d) Mixed Finance Developments (see Chapter I of this ACOP): PHCD and the owner have entered into a Memorandum of Understanding (MOU) with Miami-Dade County Homeless Trust to refer individuals to a waiting list for Special Needs Households. Pursuant to the MOU, if the Homeless Trust does not refer any individuals within 14 business days of notification of the availability of units, PHCD may select applicants from the Public Housing Waiting List.

C. Opening the Waiting List

1. Timing

- a) PHCD, subject to the Board of County Commissioners' approval, may elect to open and dissolve the waiting list as needed.
- b) PHCD, subject to the Board of County Commissioners' approval, may elect to open the waiting list if there are insufficient applicants for a particular bedroom size, or unit type (e.g., general occupancy, elderly designated buildings, and accessible or non-accessible, or for one or more of the admission preferences).
- c) Some of these options may include an exclusive electronic open waiting list, where ranking is based on the date and time of application or any applicable factors that the agency may adopt, subject to approval by the Board.
- d) The beginning and ending dates of the waiting list's open registration period will be advertised in the local newspapers through a public notice, as described in Section A of this Chapter, for the purpose of reaching all segments of the community and providing advance notice.
- e) The registration period shall remain open for at least five (5) business days.

2. Submission of Applications

- a) People interested in applying for the programs offered by PHCD may do so during open registration periods.
- b) PHCD may limit the number of applications to be placed on the waiting list, based on PHCD's projection of ready units and other relevant data.
- c) Applications will be available on-line through the internet during the open registration period at [www.miamidade.gov/housing](http://www.miamidade.gov/housing). Assistance with the online submission of applications may be available at advertised locations.
- d) At the time of application, the head of household of the family must be 18 years of age or older, or have been emancipated by a court of competent jurisdiction.
- e) PHCD's application for admission may request the following information: family composition, income, social security numbers, immigration status, race, ethnicity, date of birth, if a wheelchair accessible unit is required, if family qualifies as a Special Needs Household, and other applicable information.
- f) Only one application is allowed per family, including head of household and family members. An application will be considered as long as it does not replicate the family composition in another application.

- g) Applications are nontransferable except under the following circumstances:
- (1) In case of dissolution of marriage or family disputes, PHCD will abide the court's determination on whom shall assume the head of household on the application.
  - (2) If the head of household is deceased prior to or during the application process, one of the remaining adult family members on the application will automatically become the head of household, provided such person meets all eligibility requirements. In circumstances where there is more than one
  - (2) (1) surviving adult family member, the family shall determine which surviving family member should be head of household as long as they are part of the original application.
  - (3) If the head of household is deceased and the remaining family members are minors, the person granted legal custody of such children will become the head of household and is entitled to the original date of application, provided such person meets all eligibility requirements.
  - (4) In addition to the desires of the family, PHCD will consider the interest of disabled or elderly family members, victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, and any instance of actual threatened physical violence.

3. Position on the Waiting List

- a) Applications accepted will be randomly sorted by an electronic system for assignment of a ranking number. This process is certified by an independent auditor.
- b) Placement on the waiting list does not indicate that the applicant is eligible for admission or that the applicant will receive a housing offer.

4. Movement on the Waiting List

- a) Each applicant moves up the waiting list in ranking number sequence and based on applicable admission preference and type and size of unit required.
- b) When an applicant reaches the top of the waiting list, the applicant's information will be verified, including applicable admission preference, to determine applicant's eligibility. An applicant failing to provide applicable verification of admission preference will not be eligible for that preference and will be restored to the general waiting list.

5. Removal from the waiting list

The head of the household must have the capacity under state and local law to enter into a legally binding lease agreement, where the tenant is bound by the terms of the Lease, otherwise, the family will be removed from the waiting list.

- a) The applicant family requests to be removed from the waiting list.

- b) Reasonable efforts should be made to reach applicant families by phone whose mail is returned by the post office or email host domain.
- c) Applicant families withdrawn for returned mail may request an informal review up to five years or the closing of the waiting list whichever occurs first for the purpose of reviewing and verifying the accuracy of the mail or email address in accordance with Chapter IX of this ACOP.
- d) If a family is removed from the waiting list for failure to respond, PHCD may reinstate the family if it is determined that (1) the lack of response was due to PHCD's error, or (2) for documented circumstances beyond the family's control.
- e) If an applicant is selected from the waiting list and does not respond to notices of scheduled appointments or to PHCD correspondence, the family will be removed from the waiting list and will be provided with a final notice of withdrawal and an opportunity to request an informal review, if requested, within 30 days of the notice.
- f) Applicant families determined ineligible for housing assistance will be notified in writing, including the reason for the determination. Ineligible applicants shall be provided with an opportunity for an informal review, if requested, within 30 days of the notice.
- g) If the applicant family fails to respond to a housing offer or refuses the housing offer, the applicant family will be removed from the waiting list, notified in writing, and provided an opportunity to request an informal review, if requested, within 30 days of the notice.
- h) If the applicant family accepts a housing offer and signs the *Public Housing Dwelling Lease*, the application will be removed from the waiting list.
- i) If the applicant family accepts the housing offer and does not attend or reschedule the appointment to sign the *Public Housing Dwelling Lease*, the AMP Administrator will notify the Applicant Leasing Center (ALC). As a result, the applicant family will be removed from the waiting list, notified in writing, and provided an opportunity to request an informal review within 30 days of the notice.
- j) Applicant families whose applications are withdrawn or rejected may reapply for housing when the waiting list is opened.
- k) All rejected applicants are entitled to a written explanation of the reason for their rejection and may request an informal review. At the informal review, rejected applicants may present reasons why they should be reinstated to the waiting list (See Chapter IX - Grievance and Appeal Policy, of this ACOP).
- l) All applicants determined ineligible for housing assistance or removed from the waiting list will receive HUD form 5380, *Notice of Occupancy Rights under the Violence against Women Act* form, and HUD form 5382, *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation* form, at the time the applicant is denied assistance. See Chapter XIV—Violence Against Women Act of this ACOP for additional details.



6. Reinstatement to the Waiting List

a) Reasonable Accommodations

Applicant families who refused the housing offer due to a disability may request a reasonable accommodation in accordance with the Reasonable Accommodation Policies and Procedures (Appendix IV of this ACOP). Upon approval of the reasonable accommodation request, the applicant family shall be returned to the applicant's former waiting list position.

b) Informal Reviews

If the Hearing Officer overturns the PHCD decision to remove the applicant family from the waiting list, the applicant family shall be returned to the applicant's former waiting list position.

D. Factors Affecting Selection from the Waiting List

Several factors may affect how applicants are selected. These factors are described below:

1. The need for units complying with the Uniform Federal Accessibility Standards (UFAS) or units with accessible features.

a) Transfers of residents with disabilities and placement of applicants with disabilities requiring units complying with UFAS or units with accessible features (as defined in Appendix I of this ACOP), will be approved in accordance with the Reasonable Accommodation Policies and Procedures (Appendix IV of this ACOP), through PHCD.

b) When an accessible unit becomes available, the unit will first be offered to a current resident with disabilities in the same development who requires the accessibility features of the vacant accessible unit and who is otherwise occupying a unit not having those features.

c) If there are no current residents in the same development who require the accessibility features, then the vacant accessible unit will be offered to a resident with disabilities from another development that requires the accessibility features.

d) If there are no current residents who require the accessibility features of the vacant accessible unit, then the vacant accessible unit will be offered to the next eligible qualified applicant with disabilities on the waiting list.

e) If there are no eligible qualified residents or applicants with disabilities on the waiting list who wish to reside in the available accessible unit, then the unit will be offered to an applicant on the waiting list who does not need the accessible features of the unit. The *Public Housing Dwelling Lease* requires residents to relocate to a vacant non-accessible unit within 30 days of date written on the notification from the AMP Administrator, if there is an eligible applicant or existing resident with disabilities who requires the accessibility features of the unit.

2. Resident Transfers (Refer to Chapter V-Transfer Policy)

PHCD will also offer units (including Public Housing units in mixed finance developments) to existing qualified residents on the transfer list. Emergencies,

reasonable accommodation, extraordinary circumstances, and occupancy standards transfers are processed before new admissions, as detailed in Chapter V of this ACOP.

3. Elderly Designated Housing

Elderly families (see definition in Appendix I) from the Public Housing waiting list receive priority for admission to units or buildings covered by HUD-approved Elderly Designated Housing Plan. When there are insufficient elderly families, PHCD may grant near-elderly families (see definition in Appendix I) priority for admission to these units or buildings or reopen the waiting list to receive applications for this type of elderly unit designation.

4. Mixed Population Projects

A mixed population project is a public housing development that was reserved for elderly and disabled families at its inception. Dwelling units with special accessibility features for handicapped people will first be offered to families with persons that require the accessibility features of such units.

5. Deconcentration of Income and Poverty

- a) PHCD may perform an income analysis of its general occupancy, family public housing developments to determine which developments covered by 24 CFR § 903.2(b) fall outside the Established Income Range (EIR). The EIR is 85% to 115% of the average family income of PHCD's covered developments, or 30% of the Area Median Income, whichever is greater.
- b) PHCD's policy includes making capital improvements in developments with an average income below the EIR to encourage applicants with family income above the EIR to accept units in those developments.

6. Admission Preferences

PHCD may adopt admission preferences for selection of families admitted to the public housing program based on admission housing needs and priorities as determined by PHCD. Admission preferences are subject to the specific admission preference being indicated in the housing application. Applicants requesting an admission preference should be properly coded in the waiting list.

PHCD will not hold its units vacant for applicants with an admission preference, nor will it relax eligibility or screening criteria to admit otherwise unqualified applicants with a preference.

a) Assisted Living Facilities (ALF)

PHCD provides an admission preference to applicants interested to be housed in an ALF over new admissions from the Public Housing waiting list. The applicant must meet the ALF Admissions Criteria at the time of eligibility screening (see Chapter III of this ACOP).

- b) Miami-Dade County Residency Preference – PHCD will administer a residency preference for applicants that reside anywhere in Miami-Dade County, including families who work or have been hired to work in Miami-Dade County.
- c) Homeless referred by the Miami-Dade County Homeless Trust: In an effort to address the risk of homelessness, PHCD may collaborate with the Homeless Trust on referrals of persons transitioning out of a shelter, transitional housing program, rapid re-housing program or permanent supportive housing.
- d) Veterans
- (1) PHCD, at its sole discretion, will provide an admission preference over new admissions to applicants whose head or co-head are eligible veterans.
- A veteran is a person who:
- had at least 180 days of regular active duties and was honorably discharged or released; or
  - had at least 90 days of active duty service, of which at least one (1) day of service was in a war conflict and was honorably discharged or released; or
  - served in a war conflict and was awarded a Purple Heart or became disabled, regardless of completion of days of active duty.
- The veteran status extends to spouses, widows, widowers and parents of the military killed during a time of war.
- (2) Applicants claiming a veteran's preference must provide a copy of military service record, proof of service, or the discharge documents (Form DD214) of the veteran for whom the preference is claimed.
- e) A participant under PHCD's Housing Choice Voucher or Project Based Voucher program who has lost their assisted housing because the private owner failed the Housing Quality Standards (HQS) and the family has been unable to lease a new unit within the period provided by PHCD.
- f) An admission preference for extremely low-income or special needs households to its Low-Income Housing Tax Credits (LIHTC) developments referred by the Miami-Dade County Homeless Trust pursuant to the executed memorandum of understanding.
- g) An admission preference for homeless families who have been referred by the Miami-Dade County Homeless Trust pursuant to the executed memorandum of understanding.
- h) Vulnerable Populations  
PHCD may establish further admission preferences to assist vulnerable populations, subject to resource availability and at its discretion. Examples of such population include families under the witness protection program, ex-offenders and felons that are part of a reentry program, and pregnant women or women with children where one or more members of the household have been diagnosed with the acquired immunodeficiency syndrome (AIDS).

- i) **Special Housing Initiatives**  
PHCD, subject to resource availability and at its discretion, may develop special housing initiatives that may receive an admission preference. These special housing initiatives may target specifically named families and may be based on PHCD and community priorities or HUD's request.
- j) **Changes in Admission Preference Status:**
  - (1) Occasionally, families on the waiting list who did not qualify for an admission preference at the time they applied for rental assistance will experience a change in circumstances that now qualifies them for a preference. In such instances:
    - (a) It is the family's responsibility to notify PHCD.
    - (b) The record will be updated for families certifying that they now qualify for an admission preference on the waiting list in accordance with their electronic randomly sorted ranking and their applicable preference(s).
  - (2) Applicants failing to provide verification of their admission preference status at initial eligibility screening will not be eligible for the admission preference and will be restored to the general waiting list for selection in accordance with the movement on the waiting list.
  - (3) Applicants determined ineligible for the requested admission preference will be notified of their ineligibility and shall be provided an opportunity for an informal review if requested within 30 days of the written notice.

## 7. Special Admissions

Applicants may be admitted to the Public Housing program even though they are not on the waiting list but meet one of the following conditions:

### a) Displacement

At the discretion of the PHCD Director, PHCD can assist displaced families due to national disasters. The definition for displaced families is included in Appendix I of the ACOP. Displaced families may include families under the witness protection program provided supportive documentation from applicable authorities is provided.

### b) Referrals for Humanitarian Reasons

PHCD, at its sole discretion, may accept referrals for humanitarian reasons as mandated from HUD and/or from appropriate federal, state, and/or admission agencies.

- c) **Change of Program Special Admission Preference:** PHCD may, at its sole discretion, for humanitarian reasons, including but not limited to, reasonable accommodation for a family member with disabilities in another PHCD administered federally assisted housing program, provide another site-based housing opportunity, such as the Moderate Rehabilitation or Public Housing programs. This family may be placed on PHCD's waiting list even if the waiting list is otherwise closed or may already be on PHCD's waiting list. PHCD will

confirm that the tenant is in compliance with all assisted housing tenant and lease obligations. Approval of PHCD's Director or designee is required.

E. Closing the Waiting List

1. PHCD may elect to dissolve the waiting list periodically or as needed. Notwithstanding the dissolution of the waiting list, applicants who were selected from the waiting list and are pending a unit offer will continue to be processed by PHCD.
2. The applicant family will not be offered a unit under the dissolved waiting list under the following circumstances:
  - a) The applicant family that was selected and scheduled for initial interview, but did not attend.
  - b) The applicant family refused a housing offer without good cause (see Appendix I – Definitions of this ACOP).

### III. Eligibility for Admission and Assignment Plan

#### A. Requirements for Admission

1. An applicant is qualified if they meet all of the following criteria:
  - a) Is a family, as defined in Appendix I of this ACOP;
  - b) Meets HUD requirements on citizenship or immigration status;
  - c) Is within HUD's established income limits;
  - d) Provides documentation of Social Security numbers for all family members, except for those individuals who do not contend that they have eligible immigration status;
  - e) Provides documentation validating identity of each adult or emancipated minor; and
  - f) Meets the Applicant Selection Criteria.
2. HUD Approved Waivers Applicable to Persons Experiencing Homelessness (Notice PIH 2024-17)

PHCD has been granted two regulatory waivers related to verification requirements at admission to the HCV, PBV, or Public Housing programs to expedite admissions of persons experiencing homelessness (refer to homeless preference). Except for Emergency Housing Vouchers (EHV) and Stability Vouchers (SV), any waiver of HCV regulations granted will apply to special purpose vouchers. These waivers will remain in effect for a period of 12 months following approval and will provide alternative requirements described below that PHCD must follow during the period the waiver is in effect.

- a) HUD waived 24 CFR 982.201(e) and 960.259(a) and (c)(1), for persons experiencing homelessness, as it relates to verifying a family member's date of birth and/or disability status at the time of admission for purposes of determining the family's eligible expenses and deductions.

#### **Alternative Requirement**

For any applicant family experiencing homelessness, PHCD may accept a self-certification from the applicable family member, if the family is unable to provide third-party verification of date of birth and/or disability status for any of its members, because of loss or lack of documents. PHCD must verify the disability status and/or date of birth within 90 days after admission.

Self-certification of date of birth and disability status cannot be utilized when it is related to the eligibility for a particular special purpose voucher (e.g., Mainstream) or for Public Housing which has been officially designated, with HUD approval, in whole or in part, for families whose head of household, co-head, or spouse is a person with disabilities or age 62 or older.

#### **Note:**

- If unable to verify date of birth within 90 days, remove any income deductions related to age (elderly or dependent) and recalculate participant portion of rent.
- If unable to verify disability status within 90 days, remove disability deduction and any disability expense from income calculation and recalculate the participant portion of rent.

- b) PHCD is required to verify a family's income eligibility within 60 days prior to voucher issuance for the tenant-based voucher program and prior to admission for the PBV and Public Housing programs. Notice PIH 2023-27 provides the verification hierarchy under which PHCD is responsible for obtaining third-party verification of reported family annual income, and PHCD must demonstrate efforts to obtain third-party verification prior to accepting self-certification except in instances when self-certification is explicitly allowed. HUD waived these requirements if an applicant family lacks necessary income documentation because the family is experiencing homelessness

**Alternative Requirement:**

- (1) For any applicant family experiencing homelessness, PHCD must first request third-party documentation from the family.
- (2) If the family is unable to provide third-party documentation at the time of the request, PHCD may immediately allow self-certification. PHCD is not required to first attempt to obtain the documentation from the third-party source of income before proceeding immediately to the family self-certification, notwithstanding the requirement under Notice PIH 2023-27 that PHCD must demonstrate efforts to obtain third-party verification prior to accepting self-certification.
- (3) Applicants must submit a self-certification declaration of income, assets, expenses, and other factors that would otherwise affect an income eligibility determination within 60 days prior to voucher issuance for the tenant-based HCV program, and prior to admission for the Public Housing and PBV programs.
- (4) If the family is unable to provide third-party verification for the tenant-based HCV program, PHCD must receive information verifying that the family is eligible within 90 days after PHCD enters into a Housing Assistance Payment (HAP) contract on behalf of the family. For the Public Housing and PBV programs PHCD must receive information verifying that the family is eligible 90 days following admission.
- (5) The adoption of this waiver does not authorize any ineligible family to receive assistance under these programs or relieve PHCD of its responsibilities to correct any overpayments or underpayments. PHCD must take steps to identify and resolve any income discrepancies, including updating the family's income retroactive to the New Admission (action code 1) HUD-50058 and correcting any overpayments or underpayments. If PHCD later determines that an ineligible family received assistance, PHCD must take steps to terminate that family from the program in accordance with the relevant program requirements.

3. Criminal History

PHCD does not inquire into an applicant's criminal history on an application and does not require applicants to disclose facts or details of conviction history or arrests. However, PHCD performs criminal background screening in its admission and continued occupancy processes.

4. Verification of Identity

- a) Required documentation validating the identity of each adult or emancipated minor:
- State issued driver's license (current and unexpired), or
  - State issued identification card (issued within the last ten (10) years);
  - U.S. passport (current and unexpired);
  - US issued immigration verification documents that contain a picture of individual (issued within the last ten (10) years);
  - Military identification card; and
  - Other documents as may be required by HUD.
- b) Adult or emancipated minor applicants that have an ineligible immigration status will be required to confirm their identity providing any of the following documents:
- Foreign passport
  - Foreign driver's license
  - Foreign birth certificate
  - Identification card issued in US
  - Foreign military identification card
  - Other documents as may be required by HUD

5. Changes to Family or Household Composition

Changes to the family or household composition shall be considered and documented at the time the changes below occur.

a) Addition to the Family

Requests for additions to the family composition must be made in writing by the head of household and are restricted to:

- (1) Spouses, co-heads, or domestic partners (see definition of Family in Appendix I of this ACOP), children born to, adopted, or otherwise granted custody by operation of law.
  - (a) PHCD will require documentation that the head of household has authorization to include a minor as part of the household.
  - (b) Documentation to add a minor can include but is not limited to court documents, pre-need guardian, school records, parent or custodian's written consent, other state and federal public assistance documentation, or power of attorney.
- (2) Immediate relatives (sons, daughters, brothers, sisters, parents, grandparents and grandchildren), may be added for humanitarian and extraordinary reasons, including reasonable accommodation for a family member on a case-by-case basis and approved by the division director or designee.



b) Removals from the Family Composition:

- (1) Any adult family member requesting to be removed from the family composition must provide a notarized statement agreeing to the removal, signed by the adult family member and the head of household.
  - (a) The notarized statement must be accompanied by two (2) pieces of supporting documentation from different sources showing that the family member is no longer residing in the subsidized unit. Supporting documentation to prove another residency may include, but is not limited to, a copy of the Lease agreement, utility bills, or official mail (from a Federal, State, County or City government agency) properly dated (no more than two (2) months old), showing the new address. PHCD may request additional documentation to verify the permanent relocation of the family member requesting removal.
  - (b) If the adult family member is unable to provide the notarized statement agreeing to removal from the family composition, the head of household must provide a written statement explaining the reason why the family member is unable to provide the statement and provide supporting documentation, if available (e.g., death certificate, jail order).
  - (c) For removal of minors, the head of household must provide a signed notarized statement accompanied by supporting documentation showing that the minor is no longer residing in the subsidized unit. Supporting documentation to prove another residency may include, but is not limited to, school records, custody records, etc. properly dated (no more than two months old), showing the new address.
- (2) As an alternative to the notarized statement, a written statement may be provided, which must be signed by the adult family member being removed upon identification, the head of household, and witnessed by the PHCD representative.
- (3) Notwithstanding the foregoing, a notarized statement will not be required of an adult family member who has violated the terms of this ACOP, the Lease, and Community Policies and as a result must be removed from the household in lieu of evicting all members of the household. Examples include a member of the household who has engaged in domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking.

c) Addition to the Household Composition

(1) Foster Children and Foster Adults

- (a) A foster child is a child that is in the legal guardianship or custody of a state, county, or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.
- (b) A foster adult are usually persons with disabilities, unrelated to the tenant family, who is unable to live alone.
- (c) Foster children and foster adults living with an applicant or resident are

considered household members but not family members. The income of foster children and foster adults are not counted as part of the family's annual income and dependent deductions may not be claimed.

- (d) PHCD will require documentation that the head of household has been granted legal guardianship or custody of a foster child or foster adult.
- (e) Effective July 1, 2025, foster children and foster adults will be considered part of the household (and therefore will be considered when determining appropriate unit size and utility allowance).

(2) Live-in Aides

- (a) PHCD must approve a live-in aide (18 years of age or older), if needed as a reasonable accommodation request, to make the program accessible to and usable by the head of household or family member with a disability.
- (b) Although a reasonable accommodation request can be made orally or in writing, it is usually helpful for both the resident and PHCD if the request is made in writing. This will prevent misunderstanding regarding what is being requested, or whether the request was made. To facilitate the processing and consideration of the request, residents or applicants may use the Live-in Aide Request and Verification forms, refer to Appendix IV of this ACOP, Reasonable Accommodation Policies and Procedures or equivalent format.
- (c) A live-in aide is a household member, not a family member. The income of the live-in aide is not counted as part of the family's annual income.
- (d) Any individual selected by the family member with disability to be the live-in aide must comply with the following criteria:
  - (i) A medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may also provide verification for a disability and the need for a live-in-aide.
  - (ii) The live-in aide must live in the unit solely to care for the disabled individual.
  - (iii) The live-in aide does not qualify for continued occupancy as a remaining family member and does not have any rights to the unit.
  - (iv) The live-in aide, head of household, and family members must maintain separate finances.
- (e) The live-in aide must provide proof of current residency.
- (f) The live-in aide must provide required documentation.
- (f) The head of household and the live-in aide must sign the *Live-in Aide Certification* initially and annually (as part of the annual reexamination of the family).
- (g) The head of household and live-in aide must sign a *Live-in Aide Agreement* which shall become part of the addendum to the resident's lease (for the *Live-in Aide Agreement* form, refer to Appendix IV of this ACOP, Reasonable

Accommodation Policies and Procedures).

- (h) The live-in aide must agree to move-out of the unit should the disabled resident, no longer resides in the unit or passes away. In such circumstances, the AMP Administrator provides notice for live-in aide to vacate the premises within 14 days. Upon termination of the live-in aide's services for any other reason, the live-in aide shall vacate the unit within 24 hours.
- (i) Under extraordinary circumstances, upon approval of the division director, relatives satisfying the definition of a live-in aide wanting to have remaining family status may be added to the family composition as a family member and not as a live-in aide. In such case, the relative's income will be part of the family's annual income.
- (j) An eligible live-in aide may be granted up to one (1) additional bedroom in accordance with the occupancy guidelines or standards.
- (k) The live-in aide must provide the following documents as part of the admission process:
- Proof of identity
  - Verification of birth date
  - Social security number
  - Proof of current residency
  - Other documents as may be required by HUD
- (l) The live-in aide will be asked to sign forms which include but is not limited to the following:
- *Authorization to Check Information*
  - *Authorization to Obtain Criminal Background*
  - *Debts Owed to Public Housing Agencies and Terminations* (Form HUD-5267)
  - *Live-in Aide Certification*
  - *Live-in Aide Agreement* (completed upon approval of the live-in aide)
- (m) HUD maintains a record of current participants and of debts owed and adverse information of former participants, which is available to housing authorities through the Enterprise Income Verification (EIV) system. PHCD will verify information of the live-in aide through EIV for double subsidy, debt owed, and any record of a negative reason for their end of participation from another housing authority or program.
- (n) The live-in aide individual may be denied for the following reasons:
- Failed to provide or sign required documentation to complete the admission process and/or failed to sign the *Live-in Certification* or ***Live-in Aide Agreement*** forms.
  - Committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
  - Has been living in the subsidized unit as an unauthorized occupant/boarder.
  - Has engaged in criminal activity as detailed in Chapter III of this ACOP.
  - Owes rent or other amounts to the public housing agency (PHA) in

connection with Section 8 or public housing assistance.

## 5. Mandatory Social Security Numbers

Effective January 31, 2010, all members of the household, including the live-in aide and children under the age of six (6), **except those that do not contend eligible immigration status**, must provide appropriate documentation of their assigned Social Security Number (SSN) before the household member is admitted into the program.

### c) Disclosure requirement for applicants

At the time applicant's eligibility is determined, each applicant must submit:

- the complete and accurate SSN for each member of the applicant's household, including the live-in aide and children under the age of six (6), unless the member of the household does not contend that they have eligible immigration status and
- the required documentation to verify each SSN issued by a federal or state government agency that contains the name and SSN of the individual, along with other identifying information of the individual (i.e. address, date of birth, etc.); or
- a declaration from the applicant stating why they cannot obtain their SSN card, and what their SSN is together with a document stating the person's name (such as bank statement, utility or cell phone bill, benefit letter, etc., that contains the name of the individual).

If PHCD has accepted any declarations as evidence of a SSN, PHCD will review the Failed SSA Identity Report monthly within 90 days to quickly identify any participants whose identity is not verified.

If at the time of eligibility, the documents to verify the SSN for each family member cannot be submitted and the applicant is otherwise eligible, the applicant may retain their place on the waiting list for the program, but cannot become a program participant until the required document to confirm the SSN is provided, unless the following condition applies:

If a child under the age of six (6) has not been assigned a SSN and is being added to the application within six (6) months of admission date, the applicant family may provide the complete and accurate SSN and required verification within 90 calendar days of the date of admission. PHCD must grant an extension of one additional 90-day period if PHCD determines that the resident's failure to comply was due to unforeseen circumstances or circumstances outside the control of the applicant.

### b) Residents

- (1) Initial Disclosure: Each resident whose initial determination of eligibility began before January 31, 2010, except for those age 62 or older as of January 31, 2010, must submit a complete and accurate SSN and documentation to verify the SSN if the participant has:
  - (a) not previously disclosed a SSN;
  - (b) previously disclosed a SSN that HUD or the Social Security Administration

- (SSA) determined was invalid; or
- (c) been issued a new SSN.

(2) Subsequent Disclosure:

- (a) The complete and accurate SSN and verification is required for a new adult member regardless of age that has an assigned SSN at the time of request, at the time of processing the addition to household, at the next interim or annual reexamination.
- (b) If a child under the age of six (6) has not been assigned a SSN, the head of household will be required to provide the complete and accurate SSN and verification within 90 calendar days of the child being added to the household.

c) Verification of SSNs

One of the following documents must be submitted to confirm SSN:

- A valid SSN card issued by the SSA, or
- An original document from a federal or state government agency that contains the individual's name and SSN, along with identifying information for the individual (i.e. address, date of birth, etc.)
- A declaration from the applicant stating why they cannot obtain their SSN card, and what their SSN is together with a document stating the person's name (such as bank statement, utility or cell phone bill, benefit letter, etc., that contains the name of the individual).

If PHCD has accepted any declarations as evidence of a SSN, PHCD will review the Failed SSA Identity Report monthly within 90 days to quickly identify any participants whose identity is not verified.

Referral sources for applicants and participants who need to request a SSN or information: Information regarding SSN cards is available at [www.socialsecurity.gov](http://www.socialsecurity.gov) or 1-800-772-1213.

d) Time frame to submit documents to confirm the SSN

- (1) Applicants: Applicants may be given up to 90 days, or 120 days for applicants 62 years or older, to submit documents confirming each household member's SSN.
- (2) Program Participants: Next annual or interim reexamination or within 90 days of request date, or 120 days for participants 62 years or older. PHCD may grant additional time up to 90 days, only if there are unforeseen circumstances beyond the family's control that prevent the family from complying with the SSN requirements.

e) Resident's Penalties for failing to disclose and verify SSN

PHCD must terminate the assistance or the tenancy, or both, of the family if any member does not meet the applicable SSN disclosure, documentation and verification requirements. PHCD, at its sole discretion, may defer termination and provide resident with an additional 90 calendar days to disclose, document, and verify the SSN if the following applies (24 CFR § 5.218(c)(2)):

- (1) Resident did not meet the applicable SSN disclosure, documentation and verification requirements due to circumstances that could not have reasonably been foreseen and were outside the control of the resident; and
- (2) There is a reasonable likelihood that the resident will be able to disclose a SSN by the deadline.

Failure of the resident to disclose a SSN by the end date of the additional 90 calendar days, if provided, will result in termination of the assistance or tenancy, or both, of the participant and the participant's household.

## 6. Citizenship or Eligible Immigration Status

In order to determine each family's eligibility for full assistance or prorated assistance, PHCD is required to verify the citizenship and/or immigration status of each individual family member, unless they state they do not contend that they have eligible immigration status. Details of the requirements are described below.

- a) There are four (4) categories of citizenship/immigration status:
  - (1) Eligible citizen
  - (2) Eligible noncitizen
  - (3) Ineligible noncitizen
  - (4) Pending Verification
  
- b) The *Declaration of Citizenship or Eligible Immigration Status Certification and Verification Consent, Acknowledgement Receipt of Notice of Section 214 Requirements* form must be signed by all family members (or by parent or guardian if family member is a minor). Documents to verify citizenship or immigration status may be required as indicated below.
  - (1) A citizen/national may submit one of the following documents:
    - U.S. Passport
    - U.S. Birth Certificate
    - Puerto Rican Birth Certificate
    - Certificate of Citizenship
    - Naturalization Certificate
    - Voter's Registration
    - Other documents as may be required by HUD
  - (2) A noncitizen eligible immigrant must have permanent residence, refugee or asylee status to be eligible for full assistance. Acceptable document of eligible immigration status for noncitizens is one of the following documents:
    - (a) Permanent residents: Permanent Resident Card (Form I-551), also known as the "Green Card".
    - (b) Asylees: Asylum Approval Notice, Employment Authorization Document (EAD), or Arrival-Departure Record (Form I-94), along with government-issued ID card with photo.
    - (c) Refugees: Refugee Approval Notice or Employment Authorization Document (EAD).
    - (d) For non-citizens 62 years of age and older receiving assistance under a covered program on September 30, 1996 or applying for assistance after that date, a signed declaration of eligible immigration status and proof of age is required.

- (3) A victim under the Violence Against Women Act (VAWA) may claim a “satisfactory immigration status” when applying for assistance or continued assistance (PIH Notice 2017-02). Evidence that an individual is a self-petitioner includes one of the following:
- INS Form I-360 VAWA self-petition
  - INS Form I-130 family-based visa petition
  - INS Form I-360 self-indicating
  - INS Form I-797 Notice of Action indicating (a) receipt of the I-130 or I-360 petition by DHS, (b) a prima facie determination, or (c) approval of the I-360 or I-130 petition by DHS
- (4) Documents must be current and unexpired.
- (5) Declaration of Ineligible Immigration Status: An individual may admit to having an ineligible immigration status. The family must identify in writing which family member does not contend to have eligible immigration status.

c) Mixed Families

PHCD has included in this ACOP the required changes published in the Final Rule of the Streamlining Administrative Regulations (Docket No. FR5743-F-03) effective April 7, 2016, regarding calculation of prorated rent for mixed families ((24 CFR § 5.520(d)).

A mixed family is composed of both eligible and ineligible members and must be provided prorated assistance per 24 CFR § 5.520(d) effective April 7, 2016, unless eligible for continued assistance or temporary deferral of termination of assistance (described below).

(1) Continued Assistance

A mixed family may receive full housing assistance if they meet all of the following conditions:

- i. The family was receiving assistance under a Section 214 covered program on June 19, 1995, which is when the Noncitizens rule became effective.
- ii. The head of household, the spouse, or co-head has eligible immigration status (24 CFR § 5.506).
- iii. The family does not include any person without eligible immigration status other than the Head of Household, spouse, co-head, and parents or children of the Head, spouse, or co-head.

A family granted continued assistance before November 29, 1996 is entitled to receive non-prorated assistance. A family granted assistance after November 29, 1996 must receive prorated assistance (24 CFR § 5.520(d)).

(2) Temporary Deferral of Termination of Assistance

If a mixed family qualifies for prorated assistance (and does not qualify for continued assistance), but decides not to accept prorated assistance, or if a family has no members with eligible immigration status, the family may be eligible for temporary deferral of termination of assistance if necessary to permit the family additional time for the orderly transition of those family members with ineligible status, and any other family members involved, to other affordable housing (see 24 CFR § 5.218(b)).

- d) Documentation proving citizenship or eligible immigration status must be provided to PHCD within ten (10) business days. PHCD may extend the submission period, which shall not exceed 30 days.
- e) Family members that are ineligible noncitizens are required to submit evidence of changes in immigration status, while receiving prorated assistance under the program.
- f) PHCD shall verify with United States Department of Homeland Security (DHS) through primary, and if necessary, secondary verifications of the immigration status for each family member as follows:
  - (1) Primary Verification: The DHS Systematic Alien Verification for Entitlements (SAVE) system provides automated immigration status. This must be done as part of the applicant eligibility process or additions to households.
  - (2) Secondary Verification: If primary verification is unsuccessful and the family member has disclosed eligible immigration status and presents valid immigration documents, a secondary verification must immediately be done. This consists of mailing a DHS form with copies of the immigration documents.
- g) Pending Verification of immigration status: When the primary or secondary verification of immigration status that was timely submitted has not been received. Also, when an appeal by the individual with DHS is pending.
- h) Once the applicant or participant has provided the immigration documents, PHCD may not deny, delay or terminate assistance solely on the basis that the primary or secondary verification of the immigration status has not been completed.
- i) In circumstances where DHS has not verified eligibility, the family will be provided with a written notice that shall include:
  - (1) That the family has a right to request an appeal to DHS of the results of the verification of immigration status;
  - (2) That the family has the right to request an informal hearing with PHCD upon completion of the DHS appeal. Such a hearing shall be held in accordance with the Grievance and Appeal Policy in Chapter IX of this ACOP;
  - (3) That housing assistance may not be denied or terminated until the conclusion of the DHS or PHCD appeal process; and
  - (4) Notification of the type of assistance for which the family may be eligible (continued assistance, temporary deferral of assistance or pro-ration of assistance).



## 7. Income Limit and Income Targeting Requirements

### a) Income Limit Requirements

PHCD has included in this ACOP the required changes published in the Final Rule of the Streamlining Administrative Regulations (Docket No. FR5743-F-03) effective April 7, 2016, regarding the definition of extremely low income.

HUD annually publishes income limits, adjusted according to family size, to determine the eligibility of applicant families for admission into the Public Housing program, as summarized below:

- **Extremely Low-Income family** is defined “as a very low income family” whose annual income does not exceed the higher of the poverty guidelines established by the Department of Health and Human Services (HHS) or thirty (30) percent of the median family income for Miami-Dade County. The poverty guidelines are established by HHS on an annual basis.
- **Very low-income families** are defined as families whose incomes do not exceed 50 percent of the median family income for Miami-Dade County.
- **Low-income families** are defined as families whose incomes do not exceed 80 percent of the median family income for Miami-Dade County.

### b) Income Targeting Requirements

(1) PHCD is required by HUD to meet income targeting provisions (24 CFR § 960.202) to guarantee a share of available public housing units for extremely low-income applicant families. HUD income targeting requirements for the Public Housing Program as indicated below, or as may be amended by HUD:

- (a) Extremely low income families: This group must constitute at least 40% of all new admissions from the waiting list in any year.
- (b) Families with incomes between 31% and 80% of area median income: The remaining Public Housing new admissions (no more than 60%) can be up to the low-income level (up to 80% of the area median income).
- (c) To attain the annual extremely low-income targeting requirement of 40%, PHCD may reach out to applicants on the waiting list who are at that income level.

(2) The following categories are not counted towards the income targeting requirements:

- (a) Resident transfers
- (b) New admissions that includes the following:
  - Families “continuously assisted” in Public, Indian, Section 23 or Section 8 Housing Programs
  - Families physically displaced by rental rehabilitation
  - Non-purchasing tenants of certain homeownership programs
  - Tenants displaced from certain Section 221 and 236 projects
  - Low income families residing in certain HUD-owned projects (these families are eligible for a Certificate only)

## B. Assisted Living Facilities

PHCD administers a Public Housing facility as an Assisted Living Facility (ALF) of zero (0) and one (1) bedroom units, which provides programs and services for low-income elderly families. ALFs are regulated by Chapter 429, Part I, Florida Statutes, and Florida Administrative Code 58A-5. Admission and continued occupancy of PHCD's ALFs are subject to the following requirements:

### 1. Applicants

- a) Public Housing Program's applicants that demonstrate interest in the ALF and qualify in accordance with the ALF Admission Criteria detailed in Section 2 below.
- b) ALF qualified applicants will be selected for zero (0) or one (1) bedroom units, in the ranking order obtained by an electronic random sorting of such list. The waiting list Management provisions contained in Section C of this Chapter, apply to ALFs' applicants.
- c) The ALF units are included in PHCD Elderly Designation Plan. Either the head, spouse, or co-head of the family must be elderly (62 years of age or older). Once the elderly population of the waiting list is exhausted, PHCD may select Near Elderly families (50 to 62 years of age) for admission into Elderly designated units.

### 2. ALF Admission Criteria

The eligible family members must:

- a) be Medicaid and Medicare eligible;
- b) agree to pay the cost of ALF services and rent not to exceed the family's monthly income. If the family members receive Optional State Supplement (OSS) income, the OSS check must be endorsed to the facility and a personal needs allowance (PNA) will be provided on a monthly basis;
- c) be able to perform the activities of daily living with supervision or assistance, if necessary;
- d) be at risk of being prematurely placed in a nursing home;
- e) not require 24-hour nursing supervision or mental healthcare;
- f) not be bedridden;
- g) not have a history of violent behavior that poses a risk to the health and safety of others; and
- h) be free from communicable disease. The term "communicable disease" does not include Acquired Immune Deficiency Syndrome (AIDS), human immunodeficiency virus or any other communicable diseases, which are considered a disability. People with said disabilities are afforded protection from discrimination under State, Federal, and local anti-discrimination Laws.

Notwithstanding the before-mentioned restrictions, PHCD will provide reasonable accommodations consistent with the procedures outlined in this ACOP.

3. Referrals to ALF

The ALF admission criteria may often cause limitations in filling ALF units, as there may not be sufficient qualified applicants in the waiting list. As such, referrals may be accepted, should the waiting list be exhausted of ALF qualified applicants.

4. Transfers to ALFs

Requests of transfers to the ALF of existing interested and qualified residents of Public Housing developments are subject to the provisions under Chapter V – Transfer Policy - of this ACOP and the ALF Admission Criteria detailed in subsection (2) above. Residents requesting transfers to an ALF will receive priority over applicants requesting to reside in an ALF.

5. ALF Discharge and Public Housing Assistance Termination

ALF residents may be discharged if they no longer meet the ALF criteria per Florida Statute, Chapter 429 and Florida Administrative Code 58A-5, or because they violate the terms of the ALF contract. Additionally, the resident may be recommended for termination of housing assistance for violation of the *Public Housing Dwelling Lease*.

C. Interviews and Verification Process

1. As applicants approach the top of the waiting list, they will be contacted by mail and scheduled for an eligibility interview to commence their screening. If required, the applicant may be contacted to update information. Applications will be withdrawn if an applicant fails to attend a scheduled interview. PHCD will make an exception for those people with a disability requiring a reasonable accommodation as described in PHCD's Reasonable Accommodation Policy and Procedures, Appendix IV of this ACOP.
2. The following items will be verified to determine qualification for admission to the Public Housing program prior to obtaining written consent authorizing a criminal background check:
  - Identity of each adult or emancipated minor household member
  - Family composition and type (Elderly/Disabled/near elderly /non-elderly)
  - Annual Income
  - Assets and Asset Income:
  - Deductions from Income
  - Admission preferences
  - Social security numbers of all family members
  - Applicant Screening Information
  - Citizenship or eligible immigration status
  - Current landlord references
  - Debts owed to a public housing authority and termination of assisted housing through HUD's Enterprise Income Verification (EIV) system
  - Housing assistance (avoiding double subsidy) by a public housing authority through HUD's Enterprise Income Verification (EIV) system

- Public Records (eviction history)
3. The following item will be verified to complete the eligibility verification process after PHCD has first determined that the applicant and all other household members are eligible and qualified to rent under all other applicable requirements:
    - Criminal Background check as detailed in Section E of this Chapter.
  4. Enterprise Income Verification (EIV) At Time of Admission

PHCD will verify information of each household member through EIV for:

a) Double Subsidy

If during the eligibility process, EIV shows that a family or any household member is receiving subsidy from another housing authority (i.e., shown as residing in another housing authority or program), the family or household member must show documentation of intent to vacate from the other housing authority or program before approval for admission. PHCD may provide up to 30 days for the family or household member to show proof of intent to vacate from the other housing or program.

Assistance will be denied if the applicant or participant does not provide proof that they have moved from another housing authority or program before the expiration of the 30 days. A 30-day extension to show intent to vacate or termination of tenancy documentation may be provided in extenuating circumstances and upon good cause (see Appendix I – Definitions of this ACOP).

b) Debt Owed

If the EIV information shows that a family or household member was a former PHCD tenant, left a debt after moving from another housing authority or program, or was terminated for adverse reason(s), the family will be responsible for clearing the debt or termination information within 45 calendar days. Assistance will be denied if the family cannot or does not provide proof of debt cancellation or reversal of the termination prior to the expiration of the 45 calendar days.

PHCD will verify through EIV whether the applicant is receiving or will potentially receive a double subsidy, owes a debt to another housing authority or program, or whether a prior termination has not been cleared. The family has the right to dispute information obtained from EIV.

5. Applicants reporting zero (0) income will be asked to complete the *Monthly Family Expense* and *Income Contribution* forms to document how much they spend on: food, transportation, health care, childcare, debts, household items, etc. They will also be asked to provide the source of income for these expenses. The *Income Contribution* form is a certification signed by the person who provides the income contribution and must be notarized or witnessed by the PHCD representative upon identification of contributor.

## 6. Applicant Interview Process

Each eligibility interview appointment letter must include a list of all the documents required by PHCD at the interview and the *Personal Declaration* form, or any other approved form for the same purpose.

- a) To the greatest extent possible, eligibility interviews are conducted in privacy. Reasonable accommodations will be provided for people with disabilities who may require special services.
- b) Original documents such as birth certificates, social security numbers, pay stubs, and receipts will be reviewed, photocopied, and included in the applicant's file.
- c) During the applicant's interview, the eligibility interviewer will compare information received with past information stated on the application. If any discrepancy occurs, the applicant will be questioned and may be asked to submit additional documentation.
- d) Applicants failing to submit (1) required documents at the time of the interview or (2) being requested to provide additional documentation will be given a checklist of missing or needed documents to provide them within three (3) business days of the interview. Additional time may be provided if the applicant failed to submit documentation for good cause (see Appendix I – Definitions of this ACOP) or if approved by PHCD Director or designee.
- e) The applicant family must complete all applicable information spaces on the *Personal Declaration* form. PHCD will compare current information received with past information stated on the waiting list application and query the applicant regarding any discrepancies that may affect eligibility and/or require additional documentation. PHCD will estimate annual income for the upcoming 12-month period [24 CFR §5.609 (c)(1)].
- f) Misrepresentation of income, family composition or any other information affecting eligibility and selection criteria will result in the family being declared ineligible. In the event fraud is discovered after admission, the family may be subsequently evicted, even if the family meets current eligibility requirements at the time.
- g) After PHCD has reviewed all information with the applicant at the time of eligibility interview, all adult family members (see definition in Appendix I of this ACOP), are required to sign the necessary forms such as the *Authorization to Release Information*, prior to conducting background checks.

## 7. Personal Declaration Form

The Personal Declaration is a personal statement of information required to evaluate the eligibility for selection of the applicant. Information required on the Personal Declaration form relates to the following:

- Household composition
- Admission preferences (if applicable)
- Emergency contacts
- Previous landlord references
- Background references

- Care of unit
  - Family income
  - Family assets
  - Child-care expenses
  - Disability assistance expenses
  - Medical expenses
8. Third Party Verifications - Refer to Chapter VI(K)
9. Declaration of Income

In support of the applicant/tenant's declaration of income, PHCD may review original documents, authenticated copies, and/or electronic documents (unaltered) provided by the applicant or resident. All income related documents must be dated less than 60 days preceding the determination date (eligibility interview) and continues to be valid an additional 60 days following the request date. If income related documents expire, the applicant or resident will have to provide new documents. A photocopy will be placed in the file. Acceptable applicant or resident provided documents include:

- Consecutive and unaltered pay stubs;
- Social Security Administration award letter;
- Bank statements;
- Pension benefit statements;
- TANF award letter;
- Other official and authentic documents from a Federal, State or local agency.

For new admissions, PHCD must estimate the family income for the upcoming 12- month period, subtract the allowable deductions, from the gross annual income to determine the adjusted income.

If third party income verification is not otherwise available, a copy of the most recent federal income tax return shall be submitted, including any W-2 information, or at least two (2) consecutive pay stubs or earnings statements. As stated above, notarized statements, written statements witnessed by PHCD representative or affidavits are the least desirable forms of verifications and shall be accepted only when all other types of verification attempts have failed.

A family's intentional misrepresentation of information related to eligibility, preference for admission, housing history, allowances, family composition, income or rent would result in rejection. Unintentional mistakes that do not confer any advantage to the applicant will not be considered misrepresentations.

Income from seasonal employment (i.e., school board employees, teachers, etc.) may be calculated using one of the following methods:

- a) PHCD currently recommends using the following method: Calculate average income based on anticipated changes for the upcoming year using verified historical evidence of past income fluctuations. This second method would not require an interim re- examination at the time income decreases since such decreases would already be averaged into the anticipated annual amount.

- b) As an alternate method, PHCD may annualize income by projecting the current monthly income for 12 months even if the current income is not expected to last the entire 12 months. Under this method, the family has the right to come in for an interim re-examination once the income decreases.

D. Verification of Assets for Applicants

Value of Assets: Each asset must be analyzed to obtain its net value (market/face value less redemption cost). When verifying the value of assets, for example, a bank account, use the current balance for savings account and at least one current bank statement indicating the average balance or two (2) consecutive bank statements in order to calculate average balance for checking accounts. PHCD will accept unaltered documents (bank statements) to verify assets from checking and savings accounts in lieu of obtaining written or oral third-party verifications, if the balance is less than \$5,000.

Income from Assets: Based on the total net value of family assets. When the total value of assets is \$5,000 or less, PHCD will use the actual amount of income from assets. If the only asset is an interest bearing bank account, the actual income from the asset is the amount of interest earned shown in the last bank statement. When the total value of assets is over \$5,000, use the greater of:

- The actual amount of income from assets, or
- The imputed income from assets based on the Savings National Rate in effect at the time, which is calculated by multiplying the total assets by the passbook savings rate established by PHCD (PIH Notice 2012-29). The HUD form 50058 automatically calculates the passbook rate percentage value of the assets, compares it to the actual income, and picks the greater amount.

Note: Upon implementation of the HOTMA Final Rule Sections 102 and 104, Chapter III, Section D above and the addition will be updated with the same policy from Appendix VI to this ACOP.

E. Limitation on Assets (24 CFR § 5.618)

Note: Upon implementation of the HOTMA Final Rule Sections 102 and 104, Section E above and the addition will be updated with the same policy from Appendix VI to this ACOP.

F. ABLE Accounts

1. An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. The eligible individual is the owner and designated beneficiary of the ABLE account. An eligible individual may establish an ABLE account provided that the individual is blind or disabled by a condition that began before the individual's 26th birthday.
2. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. In determining a family's income, HUD will exclude amounts in the individual's ABLE account and the entire value of the individual's ABLE account will be excluded from the household's assets (Notice PIH 2019-09). This means actual or imputed interest on the ABLE account balance will not be counted as income. Distributions from the ABLE account also are not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

#### G. Child Support

Uncollected child support will not be counted as income so long as the family provides document(s) demonstrating that the debt uncollectible for at least three months..

Note: Upon implementation of the HOTMA Final Rule Sections 102 and 104, Section G(6) above will be updated with the same policy from Appendix VI to this ACOP.

#### H. Ability to Comply with Financial Obligations and Lease Requirements

1. Each applicant must confirm their ability and willingness to comply with the essential Lease requirements. Applicant screening shall assess the conduct in present or prior housing of the applicant and other family members listed on the application.
2. In verifying the applicant's ability to meet financial obligations, especially rent (for subsidized housing), and to comply with the Lease terms, PHCD may perform verifications with at least one prior landlord.
3. At the interview, applicants must provide current and prior addresses, as well as contact information for current and prior landlords.
4. An applicant's history of conduct and behavior must demonstrate that the applicant family can reasonably be expected to:
  - a) Not interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises by adversely affecting their health, safety, or welfare;
  - b) Not adversely affect the physical environment or financial stability of the project; and
  - c) Comply with the terms and conditions of the Lease.
5. PHCD may verify applicants' record of disturbance of neighbors, destruction of property or living and housekeeping habits at prior residences that may adversely affect the health, safety or welfare of other tenants or cause damage to the unit or development.
6. Payment of funds owed to PHCD or any other housing authority is part of the screening evaluation.
7. PHCD's examination of relevant information respecting past and current habits or practices will include, but is not limited to, an assessment of the applicant and each family member with respect to:
  - a) Past performance in meeting financial obligations, especially rent and utility bills. If the applicant had difficulty meeting financial obligations, PHCD may consider any mitigating circumstances for failing to meet these obligations.
  - b) Record of disturbing neighbors (sufficient to warrant a police call), destruction of property, or living or housekeeping habits that may adversely affect the health, safety, or welfare of other tenants or neighbors.



- c) History of criminal activity on the part of any applicant family member involving crimes of physical violence to people or property, or other criminal acts including drug-related criminal activity that would adversely affect the health, safety, or welfare of other residents or staff or cause damage to the unit or development.
- d) A record of eviction of any household member from subsidized housing or involuntary termination from residential assistance programs (taking into account date and circumstances) for a period of five (5) years from end of participation.
- e) An applicant's ability and willingness to comply with the terms of the *Public Housing Dwelling Lease*, including but not limited to the community service requirement.
- f) Amounts owed to PHCD by current or former residents -PHCD's current or former residents admitted to other programs such as the Section 8 Housing Choice Voucher, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation Single Room Occupancy, Section 8 New Construction, Section 8 Substantial Rehabilitation, Shelter Plus Care, and Section 8 Project-Based programs managed by PHCD or to another housing authority must repay outstanding balances owed. In such cases, repayment agreements are not authorized under these circumstances.

I. Denial of Assistance

PHCD acknowledges that a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under PHCD's policies. Therefore, if an applicant is denied assistance, PHCD will provide them with its notice of denial the *Notice of Occupancy Rights under the Violence Against Women Act* form (HUD form 5380) and the *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation* form (HUD form 5382). See Chapter XIV—Violence Against Women Act of this ACOP for additional details.

PHCD will use local and national databases to perform criminal background checks (not including juvenile records) and sex offender registration checks for applicants and additions to households who are 18 years of age and older. PHCD will conduct such checks on household members who are younger than 18 years only if they are being tried as adults for certain criminal offenses.

- A nationwide criminal background check and sex offender registration check will be performed. The nationwide sex offender registration check will be conducted online using a database available at [www.nsopw.gov](http://www.nsopw.gov) (PIH Notice 2012-28).

- Prior to conducting any criminal and sex offender registration background checks, household members 18 years of age and older (including the live-in aide) must sign the consent form named *Authorization to Obtain Criminal Background Records*. The custodial parent may sign the required form on behalf of a minor. PHCD will conduct criminal and sex offender checks on household members who are younger than 18 years only if they are being tried as adults for certain criminal offenses.

PHCD may deny assistance on the following grounds:

1. Eviction or Termination from Federally Assisted Housing

PHCD shall deny assistance if any household member has been evicted from subsidized housing or experienced involuntary termination from residential assistance programs (taking into account date and circumstances) for a period of five (5) years from end of participation.

2. Failure to Meet Financial Obligations

Assistance may be denied for a period of five (5) years for failing financial obligations in subsidized housing (e.g., monies owed, paying rent and utilities) or in the following circumstances unless the family can provide proof of debt cancellation or reversal of the adverse termination within up to 45 calendar days of notice.

- a) If an applicant or any member of the applicant family currently owes rent or other amounts to PHCD or any other housing agency in connection with Section 8 or public housing assistance under the United States Housing Act and applicable federal regulations, or if any applicant who previously lived in public housing or an assisted unit vacated leaving an unpaid balance, then the applicant will not be offered assistance until the outstanding balance is paid in full.
- b) If the applicant or any member of the applicant family has not reimbursed any housing authority for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the Lease.
- c) If the applicant or any member of the applicant family breaches an agreement with any housing agency to pay amounts owed to the housing agency, or amounts paid to an owner by the housing agency.

3. Abusive Behavior

If within five (5) years of eligibility determination an applicant or any member of the applicant family has engaged in physical or verbal abuse, or threatened abusive or violent behavior that may include the use, attempted use, or threatened use of physical force, toward PHCD personnel or any County personnel or official, then the application may be denied. Applicants denied housing due to abusive behavior must be reviewed and approved by PHCD Director or designee.

4. Criminal Activity

PHCD's goal is to assist ex-offenders in gaining access to one of the most fundamental building blocks of a stable life, a place to live. However, criminal background checks are performed at admission and annual re-examinations.

PHCD is committed to seek a balance between allowing ex-offenders to reunite with their families that live in public housing, and at the same time, ensuring the safety of all residents of its programs.

- a) PHCD may deny admission or terminate assistance when the screening process shows a conviction (see Appendix I. – Definitions of this ACOP) for engaging in criminal activity and history of inability to comply with the terms of previous leases, as verified by previous landlords or other entities. However, PHCD may consider mitigating circumstances.
- b) In its decision to deny or terminate assistance, and prior to sending the denial notice, PHCD shall conduct an individualized assessment considering the following:
  - the seriousness of the case, especially as it affects the health and safety of other residents;
  - the effect of denial or termination of assistance on other family members who were not involved in the action or failure to act;
  - the level of violence, if any, of the criminal activity for which the applicant or resident was convicted;
  - the length of time since the conviction;
  - the number of convictions that appears on the applicant or resident's criminal history;
  - the possibility of the applicant or resident being rendered homeless; and
  - the rehabilitation efforts taken by applicant or resident after conviction or released from prison.

PHCD, if it admits such a family to the program, may impose as a condition of assistance, the requirement that family members (other than the head of household) who participated in or were culpable for the action or failure to act will not be part of the applicant family or reside in the assisted unit, upon approval of PHCD or hearing officer or hearing panel.

- c) Pursuant to PIH Notice 2015-19, an arrest is not evidence of criminal activity that can support an adverse admission, termination or eviction decision. As such, an arrest where the disposition of the criminal charges are voided, invalidated, rendered inoperative, dropped, nolle prossed, dismissed pursuant to successful completion of a diversion or a deferral of judgment program, no action, or other resolution that does not involve an admission of guilt or where the applicant is found not guilty or acquitted, may not result in denied or terminated assistance.
- d) However, PHCD may deny or terminate assistance based on the conduct underlying arrests, only if the conduct indicates the individual is not suitable for tenancy, in which case PHCD may gather sufficient evidence to support an adverse admission, termination, or eviction decision.
  - (1) Such evidence may consist of the police report associated with the arrest and consider the reported circumstances of the arrest. PHCD may also consider any statements made by witnesses, not included in the police report and any other evidence relevant to determining whether or not the applicant or tenant engaged in disqualifying activity.

- e) PHCD may permanently deny or terminate assistance for convictions related to the following:
- (1) Methamphetamine manufacturers on premises of federally assisted housing.
  - (2) Sex offenders subject to a lifetime registration under a state sex offender registration program. In searching for sex offenders, PHCD will perform background checks nationwide. The nationwide sex offender registration check will be conducted online using a database available at [www.nsopw.gov](http://www.nsopw.gov) (PIH Notice 2012-28).
  - (3) Felonious violent criminal activities, including but not limited to murder, arson, aggravated felony battery and sex-related crimes not subject to lifetime registration under a state sex offender registration program.
- f) Except for methamphetamine manufacturing, sex-related crimes, felonious violent criminal activities (e.g., murder, arson, aggravated felony battery) and those convictions for criminal activities described in Miami-Dade County Ordinance 15-47, PHCD shall consider:
- Criminal felony convictions that have occurred within the last five (5) years from the date of conviction; and
  - Criminal misdemeanor convictions that have occurred within the last three (3) years from the date of conviction.

The lookback period starts upon commencement of formal eligibility screening commences.

- g) PHCD may not deny or terminate housing due to misdemeanors considered civil violations according to County Ordinance 15-47, listed below:
- Litter
  - Illegal Use of Dairy Cases, Egg Baskets, Poultry Boxes, or Bakery Containers
  - Trespass on Property Other than Structure or Conveyance Retail Theft by Removal of a Shopping Cart
  - Loitering or Prowling
  - Possession of Cannabis in an amount of 20 grams or less
  - Possession of Drug Paraphernalia
- h) After conducting an individualized assessment, PHCD may deny or terminate assistance, if the applicant or resident has been convicted for the following criminal activities:
- (1) Drug-related activities, including, but not limited to, eviction or termination from federally assisted housing due to drug activity. Drug-related activities mean illegal manufacture, sale, distribution or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.
  - (2) Violent criminal activities which shall include any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, non-trivial bodily injury or property damage.

- (3) Non-violent criminal activities that may threaten the health, safety or right to peaceful enjoyment of the premises by other residents. Examples are crimes that involve disturbing the peace, crimes against property such as burglary, larceny and robbery, and crimes that impose a financial cost such as vandalism, bribery, and fraud, including fraud in connection with federally assisted housing.
- (4) Alcohol abuse or pattern of abuse, if PHCD has reasonable cause to believe that the person's abuse or pattern of abuse of alcohol may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.
  - i) In determining denial or termination of assistance related to drug or alcohol abuse, PHCD must take into consideration: Evidence of drug or alcohol rehabilitation, as indicated under Mitigating Circumstances below, and if the drug or alcohol abuse is related to a disability, as determined by PHCD's ADA Coordinator.
  - j) PHCD shall not consider any additional restrictions for eligibility of housing assistance due to criminal activities not required by federal law, regulations, and this policy.

5. Other Non-Criminal Activities

Assistance will be denied or terminated for a period of five (5) years for inability to comply with the lease terms (e.g., record of disturbance of neighbors, destruction of property, living and housekeeping habits) that may adversely affect the health, safety or welfare of other tenants or cause damage to the unit or development.

6. Notification of Proposed Rejection

PHCD must notify the household of the proposed rejection, the reason for the denial of admission or termination, and provide an opportunity to dispute the accuracy and relevance of the record. If the denial is because of criminal background, PHCD must provide the household member with copy of the criminal records.

Criminal records (not including juvenile records) for minors convicted as adults available to PHCD by operation of law will be released to the head of household, parent or legal guardian of the minor, upon request. Refer to Chapter IX of this ACOP.

The HUD form 5380, *Notice of Occupancy Rights under the Violence Against Women Act* form, and the HUD form 5382, *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation* form, will be provided at the time the household is denied assistance.

J. Mitigating Circumstances for Applicants and Residents

- 1. Mitigating circumstances are facts relating to negative rental history or behavior, that, when verified, indicate that the reason for the unsuitable rental history or behavior is no longer in effect or is under control, justifying admission or continued occupancy. Mitigating circumstances would overcome or outweigh information gathered in the screening process.

2. The factors below will be taken into consideration when reviewing the conviction(s) for engaging in criminal activities. These factors are not the only allowable mitigating circumstances. PHCD may consider other mitigating circumstances as appropriate. Providing documentation of mitigating circumstances as described below is the responsibility of the family. It is incumbent upon the family to provide documentation, evidence and any and all other third-party proof at any time, including but not limited, to the investigation interviews, appointments with PHCD staff, at the time of the informal review or within the time limit set by the hearing officer to provide substantiating information challenging the recommendation to deny assistance.

- a) Removal of Family Member

The applicant or resident may request removal of the offending family member from the family composition and the family member may not remain on the application nor reside in the Public Housing unit in order for the family to be assisted in the program.

If the offending family member(s) is not removed, then the entire family shall be recommended for denial of assistance from the Program. In circumstances where the offending family member is the head of household, the entire family shall be recommended for denial of assistance from the Program.

Depending on the seriousness of the offense, PHCD may consider to reinstate the removed offender family member, if they are able to establish that they have been rehabilitated (i.e., drug or alcohol rehabilitation program).

- b) Violation of Peaceful Enjoyment

PHCD may consider all circumstances relevant to a particular case, such as the seriousness of the offending action, the extent of participation by the head of household or household member(s) in the offending activity and the extent to which the head of household or household member(s) has shown personal responsibility to prevent or mitigate the offending action. Upon determination by the hearing officer or PHCD may require a family to exclude a household member in order to receive housing assistance, where that household member has participated in or been culpable for the action or failure to act that warrants denial or termination of assistance.

- c) Substance Abuse Rehabilitation

Upon determination by PHCD, hearing officer, hearing panel whether to recommend denial or termination of assistance for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, may consider whether such household member was remanded by the court and is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully. For this purpose, PHCD shall require the applicant or resident to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

d) Domestic Violence

Upon request, other documents may be submitted in lieu of the HUD form 5382, *Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking and Alternate Documentation* form. See Chapter XIV– Violence Against Women Act and Appendix I - Definitions of this ACOP for additional details.

3. Examples of mitigating circumstances may include:
  - a) If the unit is not ready for move-in, the applicant or resident may refuse the unit and receive another housing offer based on availability;
  - b) Evidence of successful rehabilitation. The household member who engaged in criminal activity successfully completed a diversion or deferral of judgment program; or has successfully completed a supervised drug or alcohol rehabilitation program verified by PHCD;
  - c) Circumstances leading to the eviction or criminal activity no longer exist (for example, the criminal household member has died or is imprisoned);
  - d) Evidence of the family's participation in social service or other appropriate counseling service; or
  - e) Evidence of successful and sustained modification of previous disqualifying behavior.
4. Consideration of mitigating circumstances does not guarantee that the family will qualify for admission or continued occupancy. PHCD will consider such circumstances in light of:
  - a) the ability to provide documentation/evidence to verify the mitigating circumstances and prospects for improved future behavior;
  - b) the overall performance with respect to all the screening requirements; and
  - d) the nature and seriousness of the criminal activity, especially drug related and criminal activity that appears in the applicant's or resident's record.
5. If negative information is received about an applicant or resident, PHCD shall consider the time, nature, and extent of the conduct and factors that may indicate a reasonable probability of favorable future conduct. To be considered, mitigating circumstances must be verifiable.
6. If the applicant or resident asserts that mitigating circumstances relate to a change in disability, medical condition or treatment, PHCD shall evaluate the evidence and verify the mitigating circumstance. PHCD shall also have the right to request further information to verify the mitigating circumstance. Such inquiries will be limited to the information necessary to verify the mitigating circumstances or, in the case of a person with disabilities, to verify a reasonable accommodation (see PHCD's Reasonable Accommodation Policy and Procedures document under Appendix IV of this ACOP), which will be used by PHCD as the source document to process reasonable accommodation requests for people with disabilities.

## K. Occupancy Guidelines

Units shall be occupied by families of the appropriate size. This policy maintains the usefulness of the units, while preserving them from excessive wear and tear and under-utilization.

**Minimum and Maximum-Number-of-Persons-Per Unit Standard**

Number of Bedrooms	Minimum Persons per Unit	Maximum Persons per Unit
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10
6	6	12

1. Occupancy standards are applied at the initial certification, annual reexamination, or during authorization for transfer. For occupancy standards an adult is a person 18 years or older.
2. The unit standard must be applied consistently for all families of like size and composition.
3. The dwelling unit must have at least one (1) bedroom or living/sleeping room for each two (2) persons.
4. A one (1) person family shall be allocated a zero (0) or one (1) bedroom unit, and spousal/domestic partners shall be allocated a one (1) bedroom sized unit.
5. A one (1) person family who has been awarded with joint custody of a minor will be granted a one (1) bedroom unit.
6. PHCD will count a minor in the occupancy standard who is temporarily away from home because the minor has been placed in foster care, kinship care, or is away at school.
7. Effective July 1, 2025, PHCD will count foster children and foster adults in the occupancy standard. (Foster children and foster adults will be considered part of the household and therefore will be considered when determining appropriate unit size and utility allowance).
8. As shown in the above table, a maximum of two (2) persons per bedroom is the standard for the smallest unit a family may be offered, **except** in the following cases:
  - a) Children of opposite sex, over the age of six (6), may not be required to occupy the same bedroom or living/sleeping room;
  - b) A family that consists solely of a pregnant woman (with no other members) shall only be allocated a maximum of a one (1) bedroom unit.
  - c) A single head of household parent shall not be required to share a bedroom with a child over the age of six (6), although they may do so at the request of the family;



- d) As a reasonable accommodation, an applicant or program participant family may be allowed a larger bedroom unit to accommodate a family member who requires certain medical equipment (i.e., hospital bed) or for other verifiable reasons. A live-in aide may be assigned up to one (1) bedroom if approved as a reasonable accommodation. No additional bedrooms will be provided to accommodate the live-in aide's family members.

#### 8. Actual Unit Size Offered

- a) The largest unit size that a family may be offered would provide no more than one (1) bedroom per family member, taking into account family size and composition.
- b) If a family opts for a smaller unit size than designated and does not exceed the maximum amount of people per bedroom size (two (2) persons per bedroom) and local codes, the family will be required to sign a statement agreeing to occupy the smaller unit assigned. They may not request a transfer within two (2) years after admission, unless they have a change in family composition or because of a reasonable accommodation.

#### L. Making Housing Offers to Eligible Applicants

- 1. PHCD makes public housing unit offers throughout PHCD. Such an offer does not guarantee the availability of the unit.
- 2. To ensure equal opportunity and nondiscrimination on grounds of race, national or ethnic origin, color, sex, religion, age, disability, ancestry, status as a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, actual or perceived sexual orientation, gender identity or gender expression, pregnancy or source of income, the following procedures will be used to make unit offers:
  - a) In the selection of a family for a UFAS unit or a unit with accessible features, PHCD will give preference to current residents and then to applicant families that include a person with disabilities who can benefit from the unit features.
  - b) Eligible applicants will receive three (3) written housing offers; these housing offers must be accepted or refused within three (3) business days. The acceptance or refusal of the housing offer must be brought in person to the Applicant Leasing Center.

#### L. Showing Units to Applicants Prior to Leasing

- 1. Upon receipt of a housing offer letter, an applicant can contact the AMP administrator or designee to schedule an appointment to view the offered unit.
- 2. The applicant must accept or refuse the offered unit after it has being shown and must notify the Applicant Leasing Center (ALC) in person within the timeframe specified in the housing offer letter.

3. If the applicant accepts the offered unit, ALC will complete the process of eligibility screening and forward documentation to the AMP Administrator or designee. Once the AMP Administrator or designee receives the documentation from ALC, the AMP administrator or designee will execute a lease with the applicant. If the applicant refuses the unit, the applicant must provide a signed statement explaining the reason for the refusal. ALC is then responsible for making the “good cause” determination (see Section J below).

M. Good Cause for Applicant Refusal of Unit Offer

If an applicant or resident does not accept the unit and presents clear evidence that acceptance of the offer of a suitable vacancy will result in undue hardship (see examples below) not related to federal, state, and local anti-discrimination laws regarding fair housing, the applicant will be entitled to another offer.

1. Examples of good cause for refusal of an offer of housing are:
  - a) The unit being offered to the applicant family is not ready for occupancy.
  - b) Hardship in retaining employment or attending specialty education, job training, or educational program for children with disabilities due to a lack of transportation, so that accepting the unit offer would require the adult family member to quit a job, drop out of an educational institution or job training program, or take a child out of an educational program for children with disabilities.
  - c) The family demonstrates that accepting the offer will place a family member's life, health or safety in jeopardy. The family must provide specific and compelling documentation such as restraining orders, other court orders, or risk assessments from a law enforcement agency. Reasons offered must be specific to the family.
  - d) A victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking does not believe the unit is safe pursuant to 24 CFR §5.2005(e)(1)(iii). See Chapter XIV—Violence Against Women Act of this ACOP for additional details.
  - e) A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (each as listed on final application) or live-in aide necessary to the care of the principal household member.
  - f) The unit is inappropriate for the applicant's disability, or the family does not need the accessible features in the unit offered and does not want to be subject to the 30-day notice to move.
  - g) An elderly or disabled family makes the decision not to occupy or accept occupancy in designated housing.
2. If good cause is verified, the refusal of the offer shall not require the applicant to be removed from the waiting list or otherwise affect the family's position on the waiting list. The applicant will receive another housing offer upon unit availability.

## N. Recordkeeping Requirements for Applicants

In accordance to State of Florida records retention schedule, PHCD will maintain records of the eligibility screening results and circumstances of each dwelling unit offered to an applicant, including the location of the unit, the offer date, and whether the offer was rejected or accepted. The resident's application for admission will be kept in the resident's file. PHCD may maintain records electronically.

1. Criminal records obtained by PHCD must be:
  - a) Maintained confidentially;
  - b) Not misused or improperly disseminated; and
  - c) Destroyed, once the purpose(s) for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action.
2. Criminal penalty: The improper release of criminal records may result in conviction for a misdemeanor and imposition of a penalty of not more than \$5,000. Criminal penalty may be assessed to:
  - a) Any person, including an officer, employee, or authorized representative of PHCD or of any project owner, who knowingly and willfully requests or obtains any information concerning an applicant for, or tenant of, covered housing assistance under the authority of this section under false pretenses; or
  - b) Any person, including an officer, employee, or authorized representative of any PHA or a project owner, who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive the information.
3. Civil Liability: In addition to criminal penalties, PHCD may be held civilly liable to any applicant or tenant affected by either of the following:
  - a) A negligent or knowing disclosure of criminal records information obtained under the authority of this section about such person by an officer, employee, or authorized representative of PHCD, if the disclosure is not authorized by HUD's regulations; or
  - b) Any other negligent or knowing action that is inconsistent with HUD's regulations.

## IV. Leasing Policies

### A. General Leasing Policy

1. All units must be occupied pursuant to the PHCD-approved dwelling lease that complies with HUD's regulations.
2. Prior to admission, the Lease shall be signed by the head of household, spouse, domestic partner, co-head, and all other adult members of the household and by the AMP administrator or other authorized representative of PHCD.
3. If a resident transfers from one PHCD unit to another, a new lease must be executed by the head of household and adult family members for the new dwelling unit.
4. If at any time during the life of the Lease agreement, a change in the resident's status results in the need for changing or amending any provision of the Lease, either:
  - a) A new lease agreement will be executed, or
  - b) A Notice of Rent Adjustment will be executed, or
  - c) An appropriate rider will be prepared and made a part of the existing lease.
5. All copies of such riders or insertions are to be dated and signed by the resident and by the AMP administrator or other authorized representative of PHCD.
6. Residents must advise PHCD if they will be absent from the unit for more than seven (7) consecutive days. Residents shall notify the AMP administrator or designee in writing, secure the unit, and provide a means for PHCD to contact them in an emergency. Failure to comply is grounds for termination of the Lease. See section below for maximum number of days visitors can stay in the unit.

### B. Changes in the Household and Visitors

1. Only those people listed on the most recent certification form and lease shall be permitted to occupy a dwelling unit:
  - a) Any family seeking to add a new member to the household composition must notify the AMP Administrator. The family must obtain written approval before the new member moves in, except for natural births to a family member or when a family member adopts or receives custody of children by the courts or other operations of law. (Family members being added to the family composition must meet the criteria under Chapter III and the definition of Family under Appendix I of this ACOP);
  - b) When a resident requests approval to add a new person to the Lease, PHCD will conduct pre-admission screening, including criminal background (excluding juvenile records), eligible immigration status, and sex offender registration checks, of any proposed new member 18 years of age and over, to determine whether PHCD will grant such approval. PHCD will conduct such checks on household members who are younger than 18 years if they are being tried as adults for certain criminal offenses. Minor children for whom juvenile justice records are not made available or added through a formal custody award or kinship care arrangement are exempt from the pre-admission screening process, although the

resident needs prior approval from PHCD to add children other than those born to, adopted by, or awarded by the court to the family;

- c) All persons listed on the most recent certification form and the Lease must use the dwelling unit as their sole residence. In cases of joint custody, where the families have 50-50 custody, the child shall live with both families as required by the court; however, the families must decide amongst themselves, and notify PHCD, as to under which family's Lease the child shall be listed for reporting purposes.
2. Examples of situations where the addition of a family or household member is subject to pre-admission screening are:

- a) Residents requesting to add their spouse, domestic partner, or a new family member to the Lease;
- b) Residents requesting to add a household member (e.g., live-in aide, foster adult, or take in a foster child(ren)); or

Note that effective January 1, 2024, in accordance with HOTMA, foster children and foster adults will be considered part of the household and therefore will be considered when determining appropriate unit size and utility allowance.

- c) A unit is occupied by a remaining family member(s) under age 18, who is not an emancipated minor, or an adult, not a part of the original household, requests permission to take over as the head of the household.
3. Visitors may be permitted in a dwelling unit so long as they have no previous history of unacceptable or negative behavior on PHCD premises that would be a lease violation.
- a) Visits of more than 14 days per year, whether consecutive or not, are not permitted, unless the resident obtains the advance written consent of the Asset Management Director or designee.
  - b) Visitors remaining beyond 14 days shall be considered unauthorized occupants and the head of the household shall be guilty of a breach of the Lease.
  - c) Only the persons listed in Article III of the Lease are authorized to use the unit's address in their driver's license, identification card, or as their mailing address [24 CFR §966.4 (f)(3)].
4. Unauthorized occupants, boarders, roomers and lodgers shall not be permitted to move in with any family [24 CFR §966.4 (f) (2)]. Violation of this provision is ground for termination of the Lease.
5. Residents will not permit a former resident of PHCD who has been terminated to occupy the unit for any period of time. Violation of this requirement is grounds for termination of the Lease. If the resident requests that the former resident be allowed to return, PHCD may consider this request based on mitigating circumstances.

### C. Removals from the Family Composition

#### 1. Residents (continuous assistance):

- a) Any adult family member requesting to be removed from the family composition must provide a notarized statement or a written statement witnessed by a PHCD representative agreeing to the removal, signed by the adult family member being removed upon identification and the head of household.
- b) The notarized statement must be accompanied by two (2) pieces of supporting documentation from different sources showing that the family member is no longer residing in the subsidized unit. Supporting documentation to prove another residency may include, but is not limited to, a copy of the dwelling lease agreement, utility bills, or official mail (from a Federal, State, County or City government agency) properly dated (no more than two (2) months old), showing the new address. PHCD may request additional documentation to verify the permanent relocation of the family member requesting removal.
- c) If the adult family member is unable to provide the notarized statement agreeing to removal from the family composition, the head of household must provide a written statement explaining the reason why the family member is unable to provide the statement and the supporting documentation (e.g. death certificate, jail order).
- d) For removal of minors, the head of household must provide a signed notarized statement accompanied by supporting documentation showing that the minor is no longer residing in the subsidized unit. Supporting documentation to prove another residency may include, but is not limited to, school records, custody records, etc. properly dated (no more than two (2) months old), showing the new address.
- e) As an alternative to the notarized statement, a written statement may be provided, which must be signed by the adult family member being removed upon identification, the head of household, and witnessed by PHCD representative.
- f) Notwithstanding the foregoing, a notarized statement will not be required of an adult family member who has violated the terms of this ACOP, the Lease, and Community Policies and as a result must be removed from the household in lieu of evicting all members of the household. Examples include a member of the household who has engaged in domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking.

#### D. Unauthorized Occupants/Boarders:

1. Only authorized residents are permitted to use the unit as their private dwelling and shall not use it for any other purpose [24 CFR § 966.4 (f)(2) and (3)].
  - a) In cases where PHCD obtains sufficient evidence of unauthorized occupants/boarders (see Appendix I- Definitions) or users of the subsidized unit's address (e.g. in their driver's license, identification card or as a mailing address), if the finding is denied by the head of household, then the head of household will be required to provide a written statement accompanied by two (2) pieces of supporting documentation from different sources showing the residential address of the unauthorized occupant/boarder or user.

- b) Supporting documentation to prove another residency may include a copy of the dwelling lease agreement, utility bills, or official mail (from a Federal, State, County or City government agency) properly dated (no more than two (2) months old), showing another address. The unauthorized person's driver's license or identification card may not be used as valid proof of residential address.
2. Family members over the age 17 or emancipated minors who move from the dwelling unit to establish new households shall be removed from the Lease.
  3. The resident shall report the move-out within ten (10) calendar days of its occurrence.
  4. Family members over the age of 17 or emancipated minors may not be readmitted to the unit and must apply as new applicant households for placement on the waiting list.
  5. Residents who fail to notify PHCD of additions to the household, or who permit people to join the household without undergoing screening, are in violation of the Lease. People added without PHCD approval will be considered unauthorized occupants and the entire household will be subject to eviction.
- E. Requirements for Posting Policies, Rules and Regulations at Housing Developments

The following documents shall be available in the waiting area of every housing development management office, and/or posted on a large bulletin board:

- Admission and Continued Occupancy Policies (ACOP)
- Tenant Selection and Assignment Plan (included in ACOP)
- Directory of all housing developments including names, perimeter streets, number of units by bedroom size, number of units specifically designed for the elderly, addresses of management offices and office hours
- Income limits
- Utility allowances
- *Public Housing Dwelling Lease form*
- Community Policies
- Current schedule of routine maintenance and other charges (included in Community Policies)
- Grievance and Appeal Policy (included in ACOP and Community Policies)
- Fair Housing poster
- "Equal Opportunity in Employment is the Law" poster
- Resident oriented notices
- Emergency telephone numbers for after hours and weekends
- Reasonable Accommodation Policies and Procedures document
- *PHA Plan*

F. Repayment Agreement of Amounts Owed to PHCD by Current Residents

If it is in the best interest of PHCD, PHCD has the discretion to enter into repayment agreements with residents for amounts owed to PHCD. If the resident intentionally incurred debt (i.e., rent back charge due to unreported income), the repayment agreement may be considered only under special circumstances upon approval of division director or designee. All repayment agreements must comply with the following requirements:

1. Standards for Repayment: If a repayment agreement is offered to a resident in lieu of full payment, it will be in writing and will be within the following guidelines:

- a) **If the total moneys owed is \$2,500 or less**, an initial payment of at least 50% must be paid at the time of signing the repayment agreement by money order or cashier's check. The remaining balance must be paid on a maximum of six (6) consecutive monthly payments starting 30 days from the date the initial payment is made.
- b) **If the total moneys owed is at least \$2,501 and no more than \$5,000**, an initial payment of at least 25% must be paid at the time of signing the repayment agreement by money order or cashier's check. The remaining balance must be paid on a maximum of 12 consecutive monthly payments starting 30 days from the date the initial payment is made.
- c) **If the total moneys owed is at least \$5,001 and no more than \$10,000**, an initial payment of at least 20% must be paid at the time of signing the repayment agreement by money order or cashier's check. The remaining balance must be paid on a maximum of 18 consecutive monthly payments starting 30 days from the date the initial payment is made.
- d) **If the total moneys owe is \$10,001 or more**, an initial payment of at least 15% must be paid at the time of signing the repayment agreement by money order or cashier's check. The remaining balance must be paid on a maximum of 24 consecutive monthly payments starting 30 days from the date the initial payment is made.

2. Exceptions:

- a) Any terms allowing more time for repayment or for a lower initial payment must be approved by division director or designee.
- b) Strict adherence to the terms of the repayment agreement by the participant is necessary; otherwise, benefits may be terminated in accordance with this ACOP.
- c) If the resident has not met the conditions of a repayment agreement within the last two years, the resident shall not be provided with another repayment agreement, unless approved by PHCD Director or designee.

PHCD's residents admitted to other programs such as the Section 8 Housing Choice Voucher, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation Single Room Occupancy, Section 8 Substantial Rehabilitation, Shelter Plus Care, and Section 8 Project-Based programs managed by PHCD or to another housing authority must repay outstanding balances owed. In such cases, repayment agreements are not authorized.



## V. Transfer Policy

### A. General Transfer Policy

PHCD may encounter situations where it is necessary to transfer a resident to another unit. A transfer between public housing developments is not considered a move-out.

1. Transfers will be made without regard to race, color, national or ethnic origin, sex, religion, age, marital status, familial status, status as a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, ancestry, disability, actual or perceived sexual orientation, gender identity or gender expression, pregnancy or source of income.
2. Under certain circumstances, residents may be transferred to accommodate a disability.
3. Residents will not be transferred to a dwelling unit of equal size, except to alleviate hardship or other undesirable conditions, as determined by the division director or designee.
4. Whenever feasible, transfers will be made within the resident's development or the resident's area.
5. If a family, at admission, chooses to accept a smaller unit size than would normally be assigned under the Occupancy Guideline's largest unit size, the family will be eligible for a transfer two (2) years after admission, unless they have a change in family size or composition.
6. Residents must be in good standing.
7. Residents have the right to request a hearing (refer to PHCD Grievance and Appeal Policy, (Chapter IX of this ACOP) if they are refused the right to transfer.
8. Resident's transfer requests will not be granted during the first year of tenancy, unless approved as a reasonable accommodation or emergency transfer or accepts a unit in the Assisted Living Facility.

### B. Types of Transfers:

#### 1. Management Initiated Transfers

- a) **Emergency Transfers:** These transfers are required when conditions pose an immediate threat to life, health or safety of a family or one of its members. Such situations may involve, but are not limited to, unit or building defects or law enforcement concerns, including special circumstances such as hate crimes, violence or victimization, and witness protection program, or other circumstances which may warrant a transfer.
  - Emergency transfers shall take priority over new admissions.
  - Transfers for special circumstances shall be documented (i.e. police reports, support letters from law enforcement, restraining orders, etc.) and shall be

required for the immediate safety and welfare of the family. A special circumstance transfer shall be given the next available vacancy. The resident may advise management of the need of an emergency transfer by providing required documentation.

- b) Extraordinary Circumstances Transfers: PHCD, at its sole discretion, may offer and/or grant a temporary or permanent transfer to families under the following conditions:
  - (1) A permanent transfer to families experiencing hardship in retaining employment or in attending specialty education due to a lack of transportation.
  - (2) A temporary or permanent transfer due to planned redevelopment, demolition, new construction, rehabilitation and/or repairs to their assigned unit.
- c) Occupancy Standards Transfers: These transfers are necessary to correct under housed or over housed conditions and must be recommended by the AMP administrator or designee upon annual or interim re-examinations, as required by changes in the family composition, in accordance with the Occupancy Guidelines found in Chapter III.

These transfers shall take priority over new admissions and are limited to be made when:

- The under housed (overcrowded) condition is such that the household members over the age of six (6) equal more than two (2) persons per bedroom.
- The over housed condition is such that the family size includes fewer people than the number of bedrooms in the unit.

## 2. Resident Initiated Transfers

- a) Emergency Transfer: A victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking regardless of sex, gender identity, gender expression, or actual or perceived sexual orientation may be granted a transfer in accordance with the Emergency Transfer Plan detailed in Chapter XIV—Violence Against Women Act of this ACOP.
- b) Reasonable Accommodation Transfers: Under certain circumstances, a resident's transfer request may be granted to accommodate a disability. The Reasonable Accommodation Policies and Procedures, Appendix IV of this ACOP, includes the request and verification forms required for this type of transfer.
  - (1) All Reasonable Accommodation transfers shall take priority over new admissions.
  - (2) Prior to this type of transfer, every effort shall be made to accommodate the needs of disabled residents, including but not limited to, making necessary modifications to the existing unit and providing other alternative forms of reasonable accommodation as detailed in the Reasonable Accommodation Policies.

3. Assisted Living Facility (ALF) Transfers

- a) These are transfers of interested and qualified residents of Public Housing developments to an ALF, either recommended by the AMP administrator or designee or requested by the resident.
- b) Transfers to ALFs shall take priority over new admissions to ALFs.
- c) Residents requesting ALF transfers must qualify according to the ALF Admission Criteria stated in Chapter III, Section F, and are subject to the ranking established in Chapter II of this ACOP.

4. Good Standing Requirement for Transfers

- a) Residents will be considered for transfers if the head of household and any other family members:
  - (1) have not engaged in criminal activity that threatens the health and safety of residents and staff;
  - (2) do not owe back rent or other charges, or evidence a pattern of late payment;
  - (3) meet reasonable housekeeping standards and have no housekeeping lease violations; and
  - (4) able to connect utilities in the name of an adult family member (applicable only to properties with tenant-paid utilities).
- a) Requests for exceptions to these requirements based on disability will be considered by PHCD's 504/ADA Coordinator on a case-by-case basis. An exception to these requirements may be granted by PHCD Director if the type of transfer is due to an emergency or due to planned redevelopment, demolition, new construction, rehabilitation and/or repairs to their assigned unit.
- b) Victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking that are granted the housing protections under the Violence Against Women Act (VAWA) are exempt from these requirements.
- c) Unless there is a determination of an exception, the following policy applies to transfers:
  - (1) If back rent is owed, the resident will not be transferred until a payment plan is established or, if prior payment plans have failed, the back rent is paid in full.
  - (2) A resident with housekeeping standards violations will not be transferred until they pass a follow-up housekeeping inspection.
  - (3) The resident must be in good standing and in compliance with the Lease and Community Policies.

### C. Processing Transfers

1. All transfers must be approved by the division director or designee, before the Applicant Leasing Center (ALC) admits them into the transfer waiting list.
2. Transfers to provide reasonable accommodation recommended for denial by the division director or designee must be reviewed by the 504/ADA Coordinator in accordance with PHCD's Reasonable Accommodation Policies and Procedures document (Appendix IV of this ACOP).
3. Transfers will be made in the following order of priority:
  - 1st. Emergency
  - 2nd. Reasonable Accommodation
  - 3rd. Extraordinary Circumstances
  - 4th. Occupancy Standards
4. Transfers to Uniform Federal Accessibility Standard (UFAS) Units
  - a) Transfers of residents with disabilities and placement of applicants with disabilities requiring UFAS -Accessible Units, or units with accessible features (as defined in Appendix I of this ACOP), will be centrally coordinated through the 504/ADA Coordinator's Office with the assistance of PHCD.
  - b) When an accessible unit becomes available, the unit will first be offered to a current resident with disabilities in the same development who requires the accessibility features of the vacant, accessible unit and occupying a unit not having those features.
  - c) If there is no current resident in the same development who requires the accessibility features of the vacant, accessible unit, then the unit will be offered to a resident with disabilities residing in another development that requires the accessibility features of the unit.
  - d) If there is no current resident who requires the accessibility features of the vacant, accessible unit, then the unit will be offered to an eligible, qualified applicant with disabilities on the waiting list who can benefit from the accessible features of the unit.
  - e) If there is not an eligible, qualified resident or applicant with disabilities on the waiting list who wishes to reside in the available, accessible unit, then it will be offered to an applicant on the waiting list who does not need the accessible features of the unit. See 24 CFR § 8.27. PHCD's *Public Housing Dwelling Lease* requires residents to relocate to a vacant, non-accessible unit within 30 days of notice by PHCD if there is an eligible applicant or existing resident with disabilities who requires the accessibility features of the unit.
5. When a head of a household, originally housed in a bedroom alone, has adopted or has plans to adopt a child, the family will not be approved for a transfer until the child is six (6) years of age. Exceptions: spouse, co-head, or partner returns to the unit, marriage takes place, or family decides to remain in the unit and the unit is large enough (using the smallest-unit standard) to accommodate the number of people now in the household.

6. Split-family transfers are not permitted. Separation of households will be processed as follows:
  - a) Resident-Initiated Separation of Households: Families that decide to separate because of divorce or inability to live under the same roof must identify the family member(s) who are willing to establish a new household. Such person may submit an application to be placed on the waiting list during open registration periods. The household member(s) who will be leaving the unit must do so within 30 days of notification by PHCD. The remaining family member(s) may also be required to transfer to a smaller unit if the unit becomes under-occupied after one household moves out and there exist families on the waiting list for that size unit. Whenever a family cannot agree on which family member(s) shall remain in the unit, PHCD will rely on other forms of documentation, i.e. in cases of divorce case PHCD will rely on the court decree, if available.
  - b) If upon reexamination, PHCD finds that a family composition has grown beyond the maximum bedroom size unit available in PHCD, whether the family was transferred or not to the maximum sized bedroom unit, the family must identify member(s) who are willing to establish a new household. Such party may submit an application for housing assistance during the open registration period. The household member(s) who are leaving the unit must do so within 30 days of notification by PHCD. The remaining family members may also be required to transfer to a smaller unit if the unit becomes under-occupied after one (1) household moves out and there exist families on the waiting list for that size unit.
  - c) PHCD may transfer a family to a larger unit in order to accommodate the addition of family members by birth. However, in order to maximize the use of scarce affordable housing and in consideration of applicants on the waiting list, transfers of families to separate units are not allowed.
7. Although a reasonable accommodation request can be made orally or in writing, it is usually helpful for both the family and PHCD if the request is made in writing. This will prevent misunderstanding regarding what is being requested, or whether the request was made. To facilitate the processing and consideration of the request, the residents should initiate a Reasonable Accommodation transfer with the *Authorization to Release Information, Reasonable Accommodation Request, and Reasonable Accommodation Verification*, forms in accordance with the Reasonable Accommodation Policies and Procedures (Appendix IV of this ACOP) or equivalent format.
8. When a resident is allowed to transfer, the resident's name is placed on the transfer waiting list and will be given written notice to this effect.
9. All exceptions and considerations of mitigating circumstances must be approved by PHCD Director or designee.
10. Residents will bear the cost of transfers to correct occupancy standards. However, where there is a hardship due to health or other factors, the AMP administrator or designee may recommend that families be reimbursed for out-of-pocket expenses for an occupancy standards transfer in an amount not to exceed a reasonable moving allowance established by PHCD. Residents who seek reimbursement must provide proof of their out-of-pocket expenses to PHCD, i.e. receipts. The division director or designee must approve the expense.

11. Costs associated with transfers that are mandated by PHCD (except occupancy standards) and transfers for reasonable accommodation will be paid in accordance with the Reasonable Accommodation Policies and Procedures (Appendix IV of this ACOP).

D. Administrative Requirements for Transfer Offer

- a) A family who has been approved for a transfer will receive three written housing offers that they must accept or refuse within three (3) business days.
- b) The acceptance or refusal of the housing offer must be hand-delivered to the Applicant Leasing Center (ALC). If the family rejects the offer, a second offer can be made only for good cause (see Chapter III). If the resident fails to respond, they will be removed from the transfer list and notified in writing.
- c) Upon signing the new Lease, the resident is required to move within 15 calendar days, or may face eviction proceedings in accordance to PHCD's Lease.

E. Relocation of Residents

1. Temporary Relocation: Residents who are required to temporarily relocate to permit rehabilitation of their units must be provided with:
  - a) A written notice of the dates and duration of the temporary relocation at least 30 days prior to the relocation taking place;
  - b) Information on alternative housing available; and
  - c) Reimbursement for all reasonable out-of-pocket expenses, including the cost of moving to and from the temporary housing and any increase in monthly rent/utilities costs, upon presentation of acceptable receipts.

Refer to the Public Housing Policies and Procedures Manual, *Relocation of Residents Due to Modernization* for detailed procedures.

2. Permanent Relocation: Residents living in public housing units that are dilapidated, unsafe, and/or in substantial disrepair as determined by PHCD for which there are no immediate reconstruction plans, may be relocated to comparable vacant public housing units of their choice, and based on availability. The impacted residents will not be considered part of the public housing transfer waiting list and will be provided with:
  - a) Applicable meeting(s) to inform of available or potentially available alternative housing which may include new acquisition(s) of public housing units.
  - b) Written Information on alternative housing which may include new acquisition(s) of public housing units that may be under HUD-approval process.
  - c) Written notice of the date of relocation and other requirements in accordance with the Uniform Relocation Act (URA), if applicable.
  - d) Reimbursement of reasonable out-of-pocket expenses, including moving expenses, upon presentation of acceptable receipts.
  - e) At PHCD Director's discretion, residents may return to the area at a new development.
  - f) After all affected residents have been permanently relocated, any remaining vacant units in a new acquisition development may be filled from the transfer list or waiting list.

## **VI. Eligibility for Continued Occupancy and Annual Reexaminations**

### **A. Eligibility for Continued Occupancy**

Residents who meet the following criteria will be eligible for continued occupancy.

1. Qualify as a "Family" as defined in Appendix I of this ACOP.
  - a) Are in full compliance with the resident obligations and responsibilities as described in the dwelling lease.
  - b) Whose family members of all ages, each have Social Security numbers or have certifications on file indicating they have no Social Security number.
  - c) Who meet HUD standards on citizenship or immigration status or are paying a pro-rated rent.
  - d) Who are in compliance with PHCD's eight (8) hour per month community service requirements.
  - e) Family's annual income does not exceed HUD's low-income limit for the family size or considered over-income according to parameters established by PHCD (see Section K below).

Residents not in compliance with these criteria are subject to lease termination and eviction.

### **2. Family Composition Changes**

- a) The family is required to report all changes in household composition in writing to PHCD within 10 days of the change:
  - (1) A family member is added by birth, adoption or court-awarded custody, with or without increased income;
  - (2) The family wants permission to add a member by any method other than birth, adoption or court-awarded custody, i.e., marriage, inter-dependent relationship, foster child, foster adult and/or live-in aide; and/or.
  - (3) The family removes a member.
- b) When a change in household composition is processed as an interim recertification, PHCD will update household composition; however, the rent, because of an increase in income, will not be adjusted until the next regular recertification.

### **B. Remaining Family Members**

1. To be considered the remaining member of a family, any person(s) remaining must meet all eligibility requirements.
2. Remaining family members age 18 years or older will be held responsible for any overdue amount incurred by the former head, co-head, or spouse. PHCD will not hold remaining family members (other than the head, co-head, or spouse) responsible for any portion of the overdue amount incurred before the remaining member attained age 18.

3. Remaining family members under age 18 shall not be held responsible for the overdue rent incurred by the former head of household.
4. A live-in aide or foster child/adult, by definition, is not a member of the family and will not be qualified for continued occupancy as a remaining family member.
5. In order for (a) minor child(ren) to continue receiving assistance as (a) remaining member(s), one of the following must occur:
  - a) The court has awarded emancipated minor status to the minor;
  - b) PHCD has verified that social services and/or the juvenile court has arranged for another adult to be brought into the assisted unit to care for the child(ren); or
  - c) PHCD may allow for another adult to be a temporary head of household until such time as legal guardianship is granted or a minor, at least 17 years of age, is emancipated or reaches age 18.

A reexamination will be conducted and appropriate changes to the bedroom size may be made at that time.

### C. Annual Reexamination

Due to PHCD's large portfolio of public housing units, the reexamination schedule is determined by where the resident lives, rather than by the move-in anniversary date. After the initial move-in certification, some residents may be re-certified within the first year of tenancy due to the reexamination schedule established for the building where they live. In order to have the information available to adjust the rent, the initial request for re-examination will be started at least 120 days before the scheduled effective re-examination date.

PHCD shall, at least once a year, re-examine the family composition (including the eligibility of the live-in aide, if applicable) and incomes of all resident families. Families paying Flat Rent shall have their incomes reexamined every three (3) years, but shall still be subject to annual reexamination of the family composition and the community service requirement. Criminal background checks may be included as part of the reexamination.

Note: Upon implementation of the HOTMA Final Rule Sections 102 and 104, Section C above will be updated with the same policy from Appendix VI to this ACOP.

1. Earned Income means:
  - income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment.
2. The following are considered unearned income:
  - Any pension or annuity
  - Transfer payments —payments or income received where no goods or services were offered
  - Welfare
  - Social Security
  - Government subsidies for certain benefits
  - Any cash or in-kind benefits



3. Special Reexamination:

When it is not possible to estimate family income accurately, a temporary determination will be made with respect to income and a special reexamination will be scheduled every 90 days until a reasonably accurate estimate of income can be made.

D. Interim reexamination

- Refer to Chapter VIII

E. Self-Employment Income

1. Self-employment includes independent contractors and day laborers.

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

Examples of independent contract work include but are not limited to:

- 3rd party delivery and transportation service providers
- Rideshare drivers e.g., Uber, Lyft
- House cleaners, babysitting, childcare providers

Gross income received through self-employment or operation of a business; with the exception of the following which shall be considered income:

- 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 IRS regulations; and
- 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.

F. Seasonal Employment

A seasonal worker is 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 a specific employer or industry.

Income from seasonal employment (i.e., school board employees, teachers, etc.) may be calculated using one of the following methods:

- (1) Annualize income by projecting the current monthly income for 12 months even if the current income is not expected to last the entire 12 months. Under this method, the family has the right to come in for an interim re-examination once the income decreases.

- (2) Calculate average income based on anticipated changes for the upcoming year using verified historical evidence of past income fluctuations. This second method would not require an interim re-examination at the time income decreases since such decreases would already be averaged into the anticipated annual amount.

#### G. Temporary Assistance to Needy Families (TANF)

Rent will not be adjusted as a result of a family's income decreasing because of a reduction in Temporary Assistance to Needy Families (TANF) due to sanctioning by the welfare agency, State of Florida Department of Children and Families. The family is entitled to a hearing, should it wish to appeal such decision by PHCD not to reduce the tenant portion of the rent.

#### H. Zero Income Families

- a) Unless the family has income that is excluded for rent computation, families reporting zero income will have their circumstances examined every 90 days until they have a stable income. Monetary or non-monetary contributions from people not residing in the dwelling unit for any purpose other than the payment or reimbursement of medical expenses shall be considered income. Families claiming zero (0) income must complete the Monthly Expense Report listing their monthly expenses and the source of funds to pay for those expenses.
- b) Families claiming income from contribution must provide a notarized *Income from Contribution* form signed by the person providing the contribution or the *Contribution* form may be witnessed by PHCD representative, upon identification of contributor.

#### I. Over-Income Families

The Housing Opportunity Through Modernization Act (HOTMA) of 2016 placed an income limitation on public housing tenancies. The over-income requirement states that after a family's income has exceeded 120% of the area median income (AMI) for two (2) consecutive years, the family will be notified in writing that they have six (6) months to find alternative housing. At the end of the six (6) months, the family will be issued a 30-Day Notice of Lease Termination if they have not vacated the unit.

Once PHCD determines through an annual reexamination or an interim reexamination that a family's income exceeds the applicable over-income limit, PHCD must notify the family and make a note in the tenant file to calculate the family's income again 12 months later to see if the family remains over-income. PHCD is required to begin tracking the 24 consecutive month grace period once a family's income exceeds the applicable over-income limit.

After the initial over-income determination is made, the PHCD must conduct an income reexamination 12 months later to determine if the family remains over-income even if the family is paying the flat rent (24 CFR §960.253) and/or the date no longer coincides with the family's original annual reexamination date.

a) Income Decrease Option

- If at any time during the 24-month grace period, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with PHCD's policy. If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the recertification.
- The PHA will notify the family in writing that over-income policies no longer apply. If the family's income later exceeds the over-income limit again, the family is entitled to a new two-year grace period. PHCD will begin tracking over-income families once these policies have been adopted. PHCD may terminate tenancy for families whose income exceeds the limit for the program eligibility as described at 24 CFR §960.261.

b) Notification Process for Over-Income Families

- (1) At initial determination of a family being over-income, the family will be advised in writing of the following:
  - An initial notification of *Over-Income Family Initial Notification* advising the resident of their rights, including their right to request a grievance hearing.

After 12 months of initial determination, the family will undergo a family and income reexamination. If the family remains in over-income status, they will receive a *12 Month Notification* advising the family that this is their 12-month (second) notice. This letter also advises the resident of their rights to request a grievance hearing.

- (2) At the conclusion of the consecutive 24-month period, the family will receive a *24 Month Notification* (third) notice advising them that they no longer qualify for assistance under the public housing program. The letter will advise the family of their right to request a grievance hearing.

Note that because you are no longer eligible for assistance under the public housing program no changes to the family income after you receive this notice will make you eligible to remain as a participant in the program.

- (3) A written notice is provided to the family to vacate the public housing unit within six months, as specified in notice.
- (4) If the over-income family does not find alternative housing and vacate the unit within the 6-month period, they will be issued a *30-Day Notice of Lease Termination*.

J. Reexamination Procedures

1. At the time of reexamination, all adult members of the household will be required to sign an application for continued occupancy, the community service certification, if applicable, and other forms required by HUD and PHCD. If an adult family member is temporarily away from the household and not available to sign the forms at the time of the reexamination, their status must be verified and they must sign and notarize the required documents within 30 days. Additionally, the live-in aide and head of household must sign the Live-in Aide Certification form, if applicable.

2. Income, allowances, Social Security numbers, and such other data as is deemed necessary will be verified, and all verified findings will be filed in the resident's file.
  3. Verified information will be analyzed and a determination made with respect to:
    - a) Eligibility of the resident as a family or as the remaining member of a family;
    - b) Eligibility of the live-in aide, if applicable;
    - c) Unit size required for the family (per Chapter III);
    - d) Rent the family should pay;
    - e) Compliance with the Community Service Requirements (Public Housing residents only);
  4. PHCD will access criminal justice records, including sex offender registration checks, (excluding juvenile records) of all adult members with the purpose of determining continued assistance under the program, at regular reexamination and at any other time PHCD deems it necessary. PHCD will conduct such checks on all members who are younger than 18 years if they are being tried as adults for certain criminal offenses.
  5. Residents with seasonal or part-time employment of a cyclical nature will be asked for third party documentation of their employment including start and ending dates.
  6. Income shall be computed in accordance with the definitions and procedures set forth in federal regulations and this ACOP.
  7. Families failing to respond to the initial annual reexamination appointment will be issued a second and final reexamination appointment. Failure to respond to the final request will result in the family being issued a notice of lease violation.
  8. Reexamination procedures also apply in the event residents are under the eviction or termination process. The reexamination is not an offer of extension of the lease agreement and does not constitute a waiver of such eviction or termination proceeding.
  9. Failure to Comply in Timely Manner or Non-Compliance.
    - a) A family's failure to comply with reexamination requirements in providing all required documentation and signatures on forms is grounds for termination of assistance.
    - b) If it is found that the resident failed to timely report any changes in income or family composition or provided inaccurate, or incomplete information:
      - The rent adjustment will be made retroactive as of date the change occurred; and
      - The resident will reimburse PHCD for the difference in rent.
- K. Enterprise Income Verification (EIV) and Third-Party Verification

Prior to initial certification, applicants shall be informed that PHCD will subsequently verify the family's income information they have provided PHCD through HUD's Enterprise Income Verification (EIV) system. EIV is a computer matching program that compares the income provided by the resident against income information supplied by state agencies on wages, unemployment compensation, and Social Security benefits.

PHCD will follow the verification hierarchy described in PIH Notice 2018-18. Additionally, include partial implementation of the HOTMA updates per PIH Notice 2023-27, Section J5, specifically, the new option under Level 4 documentation (Written, Third-Party Verification) of the verification hierarchy to include acceptance of the following:

- PHCD may accept an original or authentic document generated by a third-party source dated within 120 days of the date received by the PHCD to verify income.
- PHCD may also accept a statement dated within the appropriate benefit year for fixed income sources

Level	Verification Technique	Ranking
6	<b>Upfront Income Verification (UIV)</b> , EIV system is available to all PHAs as a UIV technique	Highest (Mandatory) – (not available for applicants)
5	<b>Upfront Income Verification (UIV)</b> using non-HUD system (e.g., The Work Number, etc.)	Highest (Optional)
4	<b>Written, third-party verification</b>	High (Mandatory to supplement EIV reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information and is unable to provide acceptable documentation to support dispute.) <ul style="list-style-type: none"> <li>• May accept an original or authentic document generated by a third-party source dated within 120 days of the date received by PHCD.</li> <li>• PHCD may accept a statement dated within the appropriate benefit year for fixed income sources.</li> </ul>
3	<b>Written Third-Party Verification Form</b>	Medium-Low (Mandatory if written third-party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation)
2	<b>Oral Third-Party Verification</b>	Low (Mandatory if written-third party verification is not available) Low (Mandatory if written third- party verification is not available)
1	<b>Self-Certification (not third-party verification)</b>	Low (Use as a last resort when unable to obtain any type of third-party verification)

- **Level 6:** (Highest Ranking) Upfront Income Verification (UIV) and the Income Validation Tool (IVT) using HUD's EIV System which is mandatory for residents but not available for applicants;
- **Level 5:** UIV using non-HUD system: (Optional);
- **Level 4:** Written Third-Party Verification (High) (Mandatory to supplement EIV reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information and is unable to provide acceptable documentation to support dispute. Written third-party verification documents shall be original and authentic and may be supplied by the family or received from a third-party source. **Third-party documents provided by the family shall be dated within 120 calendar days of PHCD request date and may accept a statement dated within the appropriate benefit year for fixed income sources.**
  - **Level 3:** (Medium-Low) Form-generated Third-Party is mandatory if written third party verification documents are not available or rejected by PHCD and when the applicant or resident is unable to provide acceptable documentation. When upfront verification is not available, rejected by PHCD, or the family is unable to provide written third-party documents, or PHCD shall request a written third-party verification form. PHCD will send third-party verification forms directly to the third-party by regular mail, email, fax, or e-mail third-party written verification form requests to third-party sources. At least two (2) documented attempts must be made for written third-party verification before obtaining oral (telephone or in person) third-party verifications. The file must document the attempts made to obtain third-party verification.
- **Level 2:** (Low) Oral Third Party Verification is Mandatory if written third party verification is not available. Level 2 oral verifications will be used when written verification is not obtained within ten (10) business days from the date that the written verification was mailed, faxed or e-mailed directly to the independent source. Documentation shall be placed in the applicant or resident file and on PHCD's computer system notes and shall indicate the name(s) of the person(s) who provided the information and date of the communication, as well as the name of the staff person who obtained the information.
- **Level 1:** (Lowest Ranking) When unable to obtain any type of third-party verification, a self-certification of income from an applicant or resident will be accepted as a last resort. When PHCD relies on applicant/tenant certification (notarized statement or affidavit), the file must be documented as to the reason the oral third-party verification was not available.

Pursuant to the January 27, 2009 Refinement of Income and Rent Determination final rule, PHCD must use HUD's Enterprise Income Verification (EIV) as a third party source to verify tenant employment and income information during mandatory reexamination or reexamination of family composition and income.

1. Double Subsidy: If during tenancy, or at any time after admission, the EIV system shows that a family or any household member is receiving assistance from (or is residing in) another housing authority or program, the family or household member must provide proof of termination of tenancy from the other housing agency or program for continuation of assistance. PHCD may provide up to 30 days for the family or household member to

- provide proof of termination. If after the 30 days, the participant does not provide proof of termination, the family or household member must be terminated from PHCD tenancy.
2. If the EIV information matches income provided by the resident, or if it is not substantially different, then third-party verification is not necessary. Currently, a substantial difference requiring third party verification is defined as being greater than \$200 per month (\$2,400 per year), unless amended by PHCD.
  3. If the EIV system is not available or if the information is substantially different to the resident-provided information, then written verification from third parties is the next most desirable form of verification.
    - Tenants have the right to dispute information obtained through EIV; however, such information will only be provided to the tenant if requested. Tenant income information derived from the EIV system is confidential and cannot be released to outside parties or unauthorized staff. This information is exempt from the Florida Sunshine Law and is required by HUD to be kept private under penalty of Federal law. Any EIV derived information is required to be kept guarded under lock and key and must be shredded and destroyed when no longer needed. Copies are not to be kept in tenant files to avoid risking the release of such information to anyone other than the client and authorized PHCD staff. Unauthorized disclosure or inspection of EIV data can result in a felony conviction punishable by a fine up to \$5,000 and/or five (5) years imprisonment, as well as civil penalties. (Privacy Act of 1974 as amended, 5 U.S.C § 552(a)).
  4. In cases where EIV income data is substantially different than tenant-reported income, PHCD will utilize the following guidelines:
    - a) Request written third party verification from the income source in question. For EIV Social Security Administration (SSA) benefit discrepancies, PHCD shall require the tenant to obtain a current unaltered SSA benefit letter within ten (10) business days of the interview date.
    - b) Review historical income data for patterns of employment, paid benefits, and/or receipt of other income, when PHCD cannot readily anticipate income, such as unstable working hours, and suspected fraud. For calculating income in cases of seasonal employment (i.e. school board employees, teachers, etc.), see Chapter XII, Section A.
    - c) Analyze all data (EIV data, third party verification and other documents/information provided by the family) and attempt to resolve the income discrepancy.
    - d) Use the most current verified income data (and historical income data if appropriate) to calculate anticipated annual income.
  5. PHCD may recommend terminating assistance for fraud as opposed to tenant error (see definition in Appendix I of this ACOP). Fraud includes but is not limited to forgery and pattern of unreported or under reported income. In verified differences of \$10,000 or more and when fraud has occurred, upon division director or designee's approval, PHCD may refer the case to OIG or any other law enforcement organization with jurisdiction to investigate and prosecute fraud in assisted housing, prior to commencement of the eviction process.

6. In verified instances of greater than \$200 per month (\$2,400 per year), PHCD will require payment in full or may allow the family to enter into a repayment agreement for the balance owed using the standards listed under Chapter IV or require payment in full. Should the family refuse to enter in a repayment agreement or to fulfill its obligations under its repayment agreement, PHCD shall recommend termination of assistance. This will start the eviction process.

Note: Upon implementation of the HOTMA Final Rule Sections 102 and 104, Chapter VI, Section K above will be updated with the same policy from Appendix VI to this ACOP.

L. HUD Form 9886 (Consent Form to Access EIV)

The EIV information cannot be accessed unless a current (unexpired) Authorization to Release Information (HUD Form 9886) is on file. HUD Form 9886 also authorizes disclosure of information for routine uses such as to Federal, State, and local agencies for law enforcement purposes, employment suitability, and for the purpose of determining housing assistance.

The current HUD Form-9886 only needs to be signed once by each adult family member. Thereafter, the HUD Form-9886, will need to be signed and submitted when:

- Anyone 18 years or older becomes a member of the family,
- When a member of the family turns 18 years old, or
- As required by HUD or by PHCD administrative instructions.

Families have the right to revoke the HUD Form 9886 (consent form) to PHCD; however, revoking this consent form and refusing to sign a new consent form (HUD Form 9886) can result in termination or denial of assistance in accordance with Chapter X(A)(8) of this ACOP.

M. Income Validation Tool (IVT)

Note: Upon implementation of the HOTMA Final Rule Sections 102 and 104, Chapter VII, Section M above will be updated with the same policy from Appendix VI to this ACOP.

N. Action Following Reexamination

1. If there is any change in rent, a Notice of Rent Adjustment will be sent to the resident notifying the amount and the effective date of the new rent. If there is a change in the family composition, a lease addendum is executed by the head of household and the new family members.
  - a) For annual reexaminations, the family is provided 30 days advanced notice of the new rent taking effect.
  - b) For interim reexaminations, refer to Chapter VIII of this ACOP.
  - c) Applicable to Annual or Interim Reexaminations
  - d) If it is found that the family failed to timely report any changes in income or family composition at the scheduled annual reexamination appointment or within ten (10) days of change occurring, or provided inaccurate or incomplete information at reexamination, it may be considered fraud and any of the following may occur:
    - Any increase in rent which would have occurred had changes been reported in a timely manner will be made retroactive to the effective date of the change in circumstances and the family agrees to reimburse PHCD for the difference between the rent they should have paid and the rent they were charged.
    - Any decrease in rent that would have occurred had changes been reported in a timely manner will be made effective the first day of the month following the date the change is reported to PHCD and will not apply retroactively.



2. If any change in the unit size is required, the resident will be placed on a transfer list in accordance with the transfer criteria described on Chapter V of this ACOP and moved to an appropriate unit when one becomes available, subject to the requirements stipulated in the transfer policy section and approved by the division director or designee, where required.

#### O. Risk Assessment

PHCD may refer at risk residents for an individualized risk assessment to identify and address resident needs in cases where tenancy would constitute a direct threat to the health or safety of the resident and/or other individuals, or result in substantial physical damage to the property. The individualized risk assessment will rely on objective evidence (e.g. current record, or a recent history of facts).

By identifying issues and targeting resident needs and related risks to the resident, community, property, safety or security, PHCD will reduce the propensity of criminal activity, violent or destructive behavior, housekeeping and living safety issues, potential fire hazard issues, unsafe living conditions, individual and communal disturbances, self-neglect, damage to living areas, crisis/emergency incidents, medical emergencies and/or public risk concerns. This individualized risk assessment will focus on areas in which a housing property may be able to help residents better manage their needs and maintain their ability to live safely in their unit and community. As such, reasonable accommodations will be discussed with residents as an option, if applicable.

By identifying critical issues through an individualized risk assessment, PHCD can accommodate and support residency through a better targeted array of services designed to support residents' self-determination which ultimately:

1. Enhance the ability of residents to uphold their lease obligations, taking proper care of the unit, and insuring quiet enjoyment of the property for all residents and surrounding neighbors.
2. Better work with residents with identified disabilities relating to the health and safety of themselves and within the community.
3. Improve the quality of life within the community.
4. Foster inclusion and tolerance by and for all residents and staff.

## VII. Determining Income and Income-Based Rent

### A. Annual Income

#### 1. Calculating Annual Income

- a) When calculating annual income for a household at the time of a regular reexamination, PHCD will review and calculate the family's income from the preceding 12-month period, taking into consideration any interims or changes that have taken place during that period. If PHCD determines that the family's prior-year income does not reflect the family's current income, it may adjust the calculation of annual income as needed.

For annual reexaminations, PHCD must:

- Determine the family income for the previous 12-months and any interim processed [24 CFR §5.609 (c)(2)] except when using a streamlined income determination.
- Consider any redetermination from an interim reexamination during that period.
- Adjust current income if there was a change during that period.
- Subtract the allowable deductions, from the gross annual income to determine the adjusted.

PHCD may determine the family's income prior to the application of any deductions based on income determinations made within the previous 12-month period from Low-Income Housing Tax Credit (LIHTC), Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and other means-tested forms of public assistance.

Note: Upon implementation of the HOTMA Final Rule Sections 102 and 104, Section A(1) above will be updated with the same policy from Appendix VI to this ACOP.

### B. De Minimis Errors in Income Determinations

1. Effective July 1, 2025, PHCD will not be considered out of compliance with the requirements in this paragraph solely due to de minimis errors in calculating family income. A de minimis error is an error where PHCD determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.
2. Families will not be required to repay PHCD in instances where PHCD miscalculated income resulting in a family being undercharged for their rent, regardless of amount. Once PHCD becomes aware of the error, the family will be provided with a 30-day notice of the increase to their rent portion.
3. PHCD will take any corrective action necessary to credit or repay a family if the family was overcharged tenant rent, including a de minimis error, in the income calculation retroactive to the effective date of the action when the error was made, regardless of amount.
4. PHCD will send a letter to the family and the landlord prior to the change in payments notifying them of the change and the duration of the change. If the participant has vacated the unit, the credit will be mailed (address of record) to the family.

C. Determination of Income Using Other Means Tested Public Assistance, i.e., "Safe Harbor"

1. PHCD may determine the family's income during annual reexamination based on income calculation information from certain means-tested federal public assistance programs or agencies such as the Low-Income Housing Tax Credit (LIHTC) made within the previous 12-month period.
2. PHCD will use third-party verification, which must include the family size and composition and state the family's annual income. The verification must be dated within the time frame specified for the type of verification, including within the previous 12-month period for purposes of the specified means-tested forms of federal public assistance. The family members listed in the third-party verification must match the family composition in the assisted unit. The annual income need not be broken down by family members nor income type.
3. Given that annual income includes income earned from assets, when using Safe Harbor to verify a family's income, PHCD will not inquire as to a family's net family assets, nor the income earned from those assets except with respect to whether the family owns assets which exceed the asset limitation in 24 CFR § 5.618.
4. PHCD will still require third-party verification of all deductions such as the health and medical care expense or child care expense deductions. Further, if the family is eligible for and claims the disability assistance expense or child care expense deductions, where applicable, the PHCD will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.
5. If PHCD cannot obtain the required third-party verification, or if the family disputes the determination, PHCD will calculate the family's annual income using the methods established for the applicable reexamination (24 CFR §5.609(c)(1) and (2)).

D. Streamlined Income Determination

Note: Upon implementation of the HOTMA Final Rule Sections 102 and 104, Chapter VII, Section D above, will be updated with the same policy from Appendix VI to this ACOP.

E. Annual Income Inclusions

Annual income means all amounts, monetary or not, or anticipated to be received, from a source outside of the household, by the family head, co-head, or spouse (even if temporarily absent) or any other family member during the 12-month period following the effective date of admission or annual re-examination not specifically excluded in section G. It includes, but is not limited to:

1. The full amount of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services, before any payroll deductions.
2. The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service (IRS) regulations. Any

withdrawal of cash or assets from the operation of a business or profession is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

3. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in IRS regulations. Any withdrawal of cash or assets from an investment is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income includes the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate.
4. The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount. However, deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts are excluded.
5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay. However, lump sum additions such as insurance payments from worker's compensation are excluded.

Temporary Assistance for Needy Families (TANF). If the TANF includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income consists of:

1. The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
2. The maximum amount that the welfare assistance agency could allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this requirement is the amount resulting from one application of the percentage.
3. If the amount of welfare is reduced due to an act of fraud by a family member or because of any family member's failure to comply with requirements to participate in an economic self-sufficiency program or work activity, the amount of rent required to be paid by the family will not be decreased. In such cases, the amount of income attributable to the family will include what the family would have received had they complied with the welfare requirements and/or had not committed an act of fraud.
4. If the amount of welfare assistance is reduced as a result of a lifetime time limit, the reduced amount is the amount that shall be counted.

Note: Upon implementation of the HOTMA Final Rule Sections 102 and 104, Chapter VII, Section E above, will be updated with the same policy from Appendix VI to this ACOP.

## F. Child Support

Periodic and determinable allowances, such as alimony and child support payments (see note), and regular contributions or gifts received from organizations or from persons not residing in the dwelling. (Note: uncollected child support will not be counted so long as the family provides documents demonstrating that the debt is uncollectible or has not been paid or received for more than three (3) months).

Note: Upon implementation of the HOTMA Final Rule Sections 102 and 104, Chapter VII, Section F above will be updated with the same policy from Appendix VI to this ACOP.

## G. Annual Income Exclusions

(b) Annual income does not include the following:

(1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under 24 CFR § 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 from the employment of children (including foster children) under the age of 18 years.

(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 medical 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 24 CFR §§ 5.403 and

5.603, respectively.

(9)

i. Any assistance that section 479B of the Higher Education Act of 1965, as amended, requires to be excluded from a family's income including Bureau of Indian Affairs/ Education student assistance programs;

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, tribal, 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:

A. 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 foreign governments 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 24 CFR § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in 24 CFR § 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.



(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.

#### H. Adjusted Annual Income

1. Annual income does not include the following deductions and exemptions

- a) Deductions

- Dependent Deduction – A deduction of \$480 for each member of the family residing in the household, other than the head of household, co-head or spouse, live-in aide, foster adult or foster child, who is under 18 years of age or who is 18 years of age or older and disabled, or a full-time student.
- Elderly or Disable Family Deduction: A single deduction of \$400 for any family where the head of household, co-head or spouse is at least 62 years of age or a person with a disability.

Note: Upon implementation of the HOTMA Final Rule Sections 102 and 104, Section H(1)(a) above will be updated with the same policy from Appendix VI to this ACOP.

- b) Child Care Expenses - Any reasonable child-care expenses necessary to enable a member of the family to be employed, further their education, or look for work are deducted from income. Reasonable child-care expenses for the care of children including foster children under 13 years of age, when all the following statements are true:

- The care is necessary to enable a family member to be employed, further their education or look for work;
- The expense is not reimbursed by an agency, individual outside the household or another source, such as a stipend from the child welfare agency;
- The child-care expenses must be paid from the family's annual income; and
- The expenses incurred to enable a family member to work must not exceed the amount of employment income that is included in annual income for family member claiming expense.

Note: Upon implementation of the HOTMA Final Rule Sections 102 and 104, Section H (1) (b) above will be updated with the same policy from Appendix VI to this ACOP.

- c) Health and Medical Care Expenses Defined  
(must exceed 3% of gross annual family income)

Health and medical care expense deductions are permitted only for families in which the head, spouse, or co-head is elderly or disabled. If a family is eligible for a health and medical care expense deduction, the medical expenses of all family members are counted. To be considered by PHCD for the purpose of determining a deduction from income, the expenses claimed must be verifiable.

Although HUD revised the definition of health and medical care expenses to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies with IRS Publication 502C2 for determining which expenses are included in HUD's mandatory deduction for health and medical care expenses. IRS Publication 502, in some instances, may instruct that certain expenses are not to be considered medical expenses that would otherwise be allowed under HUD's definition of health and medical care expenses. Effective July 1, 2025,

PHCD must review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.

(1) Medical expenses include unreimbursed expenses for:

- Any costs incurred in the diagnosis, cure, mitigation, treatment or prevention of disease; Payment for treatments affecting any structure of function of the body; and
- Medical insurance and long-term care premiums that are paid or are anticipated to be paid for the applicable period.

(2) Medical Expense Deduction - A deduction of unreimbursed medical expenses, including insurance premiums, anticipated for the period for which annual income is computed. Medical expenses include but are not limited to:

- Services of physicians and other health care professionals
- Services of health care facilities
- Health insurance premiums (including the cost of Medicare)
- Prescription and non-prescription medicines
- Transportation to and from treatment
- Dental expenses
- Eyeglasses
- Hearing aids and batteries
- Attendant care (unrelated to employment of family members),
- Payments on accumulated medical bills.
- Effective June 1, 2004 and while in effect, for residents who have the Medicare Prescription Drug Discount Card, consider the market (pre-discount) price of eligible drugs, not the discounted price.
- Enrollment fee (up to \$30) of the Medicare Prescription Drug Discount Card program, if not paid by Medicare. (PIH Notice 2004-11).

(3) Disability assistance (must exceed 3% of gross annual family income)

A deduction of unreimbursed amounts paid for attendant care or auxiliary apparatus expenses for family members with disabilities where such expenses are necessary to permit a family member(s), including the disabled member, to be employed. In no event may the amount of the deduction exceed the employment income earned by the family member(s) able to work.

Note: Upon implementation of the HOTMA Final Rule Sections 102 and 104, Section H(1)(c), above will be updated with the same policy from Appendix VI to this ACOP.

I. Student Aid and Financial Assistance

Pursuant to Notice PIH 2024-38, PHCD will begin to implement the student aid and financial assistance provisions on all income examinations including at new admissions, annual, or interim reexaminations with an effective July 1, 2025.

The treatment of the two categories of student aid and financial assistance (financial assistance) apply to both full and part-time students.

1. Category 1: Section 479B of the Higher Education Act of 1965 (HEA), as amended. This category requires to be excluded from a family's income. The types of financial assistance listed below are considered 479B student financial assistance programs; however, this list is not exhaustive and subject to change.

- Federal Pell Grants;
- Teach Grants;
- Federal Work-Study Programs;
- Federal Perkins Loans;
- Student financial assistance received under the Bureau of Indian Education;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA). This includes workforce investment activities for adults and workers dislocated as a result of permanent closure or mass layoff at a plant, facility, or enterprise, or a natural or other disaster that results in mass job dislocation, in order to assist such adults or workers in obtaining reemployment as soon as possible.

2. Category 2: Other Student Financial Assistance

This category of excluded student financial assistance recognizes that student aid can take a variety of forms and come from a variety of sources. It seeks to cover student financial assistance, for both full and part-time students, that is not included under HEA.

- The Federal government;
- A state (including U.S. territories), Tribe, or local government;
- A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- A business entity (such as a corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

3. Other student financial assistance does not include:

Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under HEA); or Gifts, including gifts from family or friends.

### **Covered Costs**

Actual covered costs include tuition, books, supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and fees required and charged to a student by an institution of higher education. For a student who is not the head of household, cohead, or spouse, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Other student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. PHCD must verify that the other student financial assistance is for the student's actual covered costs. Amounts in excess of covered costs are considered income.

## J. Assets

PHCD may implement changes published in the Final Rule of the Streamlining Administrative Regulations (Docket No. FR5743-F-03) effective April 7, 2016, regarding the family declaration of assets under \$5,000.

### 1. Assets Include:

- a) Amounts in savings and checking accounts.
- b) Stocks, bonds, savings certificates, money market funds and other investment accounts.
- c) Equity in real property or other capital investments. Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset.
- d) The cash value of trusts that are available to the household.
- e) IRA, Keogh and similar retirement savings accounts, even though withdrawal would result in a penalty.
- f) Contributions to company retirement/ pension funds that can be withdrawn without retiring or terminating employment.
- g) Assets, which, although owned by more than one person, allow unrestricted access by the applicant.
- h) Lump sum receipts such as inheritances, capital gains, lottery winnings, insurance settlements, and other claims, deferred SSI and Social Security payments paid in a lump sum.
- i) Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.
- j) Cash value of life insurance policies.
- k) Assets disposed of for less than fair market value during two years preceding certification or reexamination.

### 2. Exclusions from Assets:

- a) Necessary personal property.
- b) Interest in Indian Trust lands.
- c) Assets that are a part of an active business or farming operation. Rental properties are considered personal assets held as an investment rather than business assets unless real estate is the family's main occupation.
- d) Assets not accessible to the family and which provide no income for the family.

- e) Vehicles especially equipped for the handicapped.
- f) Equity in owner-occupied cooperatives and manufactured homes in which the family lives.

Note: Upon implementation of the HOTMA Final Rule Sections 102 and 104, Section H above will be updated with the same policy from Appendix VI to this ACOP.

#### K. Limitation on Assets

Note: Upon implementation of the HOTMA Final Rule Sections 102 and 104, Section K, above will be updated with the same policy from Appendix VI to this ACOP.

#### L. Computation of Rent

1. The first step in computing rent is to determine each family's Total Tenant Payment (TTP). If the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this computation, if a positive number, is the tenant rent. If the TTP less the utility allowance is a negative number, the result is the utility reimbursement, which is paid to the tenant.
2. TTP is the highest of:
  - a) 30% of adjusted monthly income; or
  - b) 10% of monthly income; but never less than the
  - c) Minimum Rent; and never more than the
  - d) Flat Rent, if chosen by the family (where applicable)
3. Tenant rent is computed by subtracting the utility allowance for tenant supplied utilities (if applicable) from the TTP. In developments where PHCD pays all utility bills directly to the utility supplier, tenant rent equals TTP.
4. The minimum rent shall be \$50 per month; however, a hardship exemption shall be granted to residents who can document that they are unable to pay the \$50 because of a hardship. Refer to Chapter VII, Section B of this ACOP.
5. At initial certification and at each subsequent annual reexamination, the resident shall be offered a choice of paying either the income-based rent or the Flat Rent applicable to the unit they will be occupying.

#### M. Utility Reimbursements

Where the utility allowance exceeds the total tenant payment of the family, PHCD will provide a utility reimbursement payment through a Utility Reimbursement Card. Deposits to the Utility Reimbursement Card will be made monthly. If the family owes any sums to PHCD or any other housing authority, PHCD may use any utility reimbursement amount owed to the family as payment.

PHCD, at its discretion and as deemed operationally feasible, may make utility reimbursement payments directly to the utility company. Such direct payment shall not require the family's consent; however, PHCD shall inform the family immediately upon its decision to make payments directly.

Effective July 1, 2025, upon the implementation of Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD, foster children and foster adults are household members and will be considered when determining utility allowance.

#### N. Earned Income Disallowance

HOTMA eliminated the Earned Income Disallowance (EID) effective January 1, 2024, however, tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID until the allowed time frame expires. No new families may be added. Further, within two years from the effective date of January 1, 2024, or January 1, 2026, no family will receive the EID benefit.

The Earned Income Disallowance (EID) is the exclusion from the calculation of the family's income, the income increase attributable to new employment or increased earnings, over the income received prior to qualifying for the disallowance. The following applies to residents who qualified and are receiving EID benefits prior to January 1, 2024.

##### 1. Lifetime Limit

###### a) 24-Month Period

The 24-month lifetime limitation applies to residents starting EID on or after May 9, 2016. This lifetime limitation shall be provided for a straight 24-month period (consecutive 12 months at 100% disallowance followed by the second and final consecutive 12 months at 50% disallowance with a fixed start and end date, irrespective of whether a family maintains continual employment).

###### b) 48-Month Period

The 48-month lifetime limitation applies to residents receiving EID prior to May 9, 2016 [24 CFR, § 960.255(b)(4)]. EID can be stretched out by temporarily stopping the clock when the resident becomes unemployed and restarting the clock upon reemployment within the applicable lifetime limit.

##### 2. The periods of income disallowance are as follows:

a) 100% disallowance of increased earnings: The initial 12-month cumulative full exclusion period begins on the date the qualifying family member experiences an increase in income attributable to employment or increased earnings. For tracking and administrative purposes, PHCD can begin the EID on the first day of the month following the effective date of employment.

b) 50% disallowance of increased earnings: The second 12-month cumulative exclusion period begins after the initial period ends.

c) Each family member is entitled to a separate EID benefit. However, each family member is entitled to such benefit only once per lifetime and applicable period limit.

O. Rent Collection

Clients are mailed a monthly rent statement listing any transactions processed that month and indicating the balance due. PHCD has initiated the following rent payment options for its residents:

Check, money order, or cashier's check mailed by the resident directly to PHCD lockbox together with the payment stub from the rent statement for processing; or

Authorized direct debit from resident's checking or savings account; or

Online payment through major credit card;

Cash will not be accepted. Payments of any kind will not be accepted at the site offices.

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## VIII. Interim Rent Adjustments: Fixed Rent System

### A. Adjusting Rent between Regular Reexamination

Rent may be re-determined between annual reexaminations when a resident undergoes a change in family composition or income. The resident must report changes in writing to the management office within ten (10) calendar days of the event.

1. Interim Reexamination shall be conducted when:
  - a) There is a change in the head of household that requires a remaining family member to take on the responsibilities of a leaseholder;
  - b) There is a change in the family composition that involve the loss or gain of a family member. An increase due to additions to the family by birth; adoption through the courts or by operation of law; or a decrease in family size may result in a change in the Tenant Rent. Such changes in family status must be reported in a timely manner by the family.
  - c) At the family's request, if family income decreases, it may be processed as per requirements listed under Chapter VII;
  - d) The rent is to be adjusted because the family is entering the 50% earned income disallowance period;
  - e) The rent is to be adjusted because the 50% earned income disallowance period ends (refer to Chapter XII, Section G of this ACOP);
  - f) A family has an increase in income as per requirements listed under Chapter VII.

### 2. Interim Rent Increases

The resident must request an interim adjustment of rent as a result of an increase in income. Increases in rent will be made effective the first day of the second month following the month in which the change is reported and proper verification completed. Failure to report an increase in income will result in a back charge retroactive to the effective date of the change.

### 3. Interim Rent Decreases

The resident may request an interim adjustment of rent as a result of a decrease or loss of income that will be for a period longer than 30 days. Decreases in rent will be made effective the first day of the month following the month in which the change is reported and proper verification completed.

### 4. Non-Interim Reexaminations

Note: Upon implementation of the HOTMA Final Rule Sections 102 and 104, Section A will be updated with the same policy from Appendix VI to this ACOP.

### B. Earned Income Disallowance (EID) (refer to Chapter XII of this ACOP)

### C. Misrepresentation by the resident

1. If the resident misrepresented facts to PHCD resulting in rent that is less than the correct amount, the increase in rent shall be retroactive to the first of the month following the effective date of the change in income. In justifiable cases,

PHCD may take such action as it deems advisable in accordance with federal or Florida law, including but not limited to termination of assistance and eviction.

2. Decreases in income resulting from welfare fraud or from welfare cuts for failure to comply with economic self-sufficiency requirements are not eligible for rent reductions (imputed welfare income).

#### D. Hardship for Families Paying Minimum Rent

A hardship exemption shall be granted to residents who can document that they are unable to pay the minimum rent of \$50 because of a hardship. Interim reexaminations to temporarily adjust the rent will be made for families under hardship.

Residents qualify for a hardship exemption to the minimum rent if:

1. The family has lost eligibility for, or is applying for, a Federal, State or local assistance program;
2. The family would be evicted as a result of the imposition of the minimum rent requirements;
3. The income of the family has decreased because of changed circumstances, including loss of employment;
4. A death in the family has occurred; or
5. Other circumstances as determined by PHCD.

The family should notify their AMP administrator or designee that they wish to request a hardship exemption. When the resident requests the hardship exemption, PHCD will suspend the minimum rent requirement beginning the month following the family's request. The suspension will continue until PHCD determines if there is a qualifying financial hardship and whether it is temporary or long term. PHCD may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the hardship exemption request.

If PHCD determines that the hardship is temporary, less than 90 days, or if the family does not qualify for the exemption, the minimum rent will be reinstated retroactively to the suspension date. PHCD will offer a repayment agreement to the family for the back rent owed.

If PHCD determines that the hardship is long term, the family will be exempted from the minimum rent requirements so long as such hardship continues. The exemption shall apply from the beginning of the month following the family's request for the hardship exemption until the end of hardship and will be reviewed at least annually.

PHCD, at its discretion, will request documentation from the residents to verify the type and extent of the hardship.

The minimum rent hardship exemption is retroactive to October 21, 1998. If any resident who qualified for the hardship exemption was charged a minimum rent since that time, the resident may be entitled to a retroactive credit.

## IX. Choice of Rent: Flat Rents

Public Housing residents may choose between a Flat Rent or Income-based Rent that is based on family income as detailed in Chapter XII. Flat Rents are based on the unit market value and vary by unit size, type and by development location. PHCD must offer new admissions to Public Housing developments a choice of paying a flat or income-based rent at the time of admission. At the annual reexamination, all Public Housing residents are offered the choice of paying the Flat Rent or Income-based Rent.

### A. Development of Flat Rents

When developing the Flat Rent schedule, PHCD will take the following information into consideration:

- Rents of non-assisted rental units in the immediate neighborhood
- Size of PHCD's units compared to non-assisted rental units from the neighborhood
- Age, type of unit and condition of PHCD's units compared to non-assisted rental units from the neighborhood
- Land use in the surrounding neighborhood
- Amenities (childcare, laundry facilities, playgrounds, community rooms, social services, education/job training programs, etc.) at PHCD's properties and in the surrounding neighborhood
- Crime in PHCD's developments and the surrounding neighborhood
- Quality of local schools serving each PHCD development
- Availability of public transportation at each PHCD development and
- Availability of accessible units for people with mobility impairments

### B. Annual Update of Flat Rents

The Flat Rent structure shall be reviewed annually and adjusted accordingly using a rent reasonableness study based on the information listed above.

Per PIH Notice 2014-12 and PIH 2015-13, the following provisions were implemented:

1. Flat Rents will be set at no less than 80% of the Fair Market Rent (FMR) and reduced, if necessary, to account for utility costs.
2. If a new Flat Rent amount will increase a family's existing rental payment by more than 35%, then the new amount shall be phased in to ensure the family's rent does not increase by more than 35% annually.
3. The revised Flat Rents will be applied to new admissions upon the revision's effective date; however, when a current Public Housing resident chooses Flat Rent, their rent shall not be adjusted until the next regular annual reexamination.

### C. Reexamination of Families on Flat Rents

Public Housing residents paying Flat Rents are required to recertify income every three (3) years, rather than annually. However, such residents are still required to participate in an annual reexamination for any changes in the family composition, to ensure that unit

size is still appropriate, and to check compliance with the community service requirements, if applicable.

D. Hardship of Families Paying Flat Rents

Families who have elected to pay flat rent are eligible to switch to a lower income-based rent, if the family has experienced a verified hardship such as:

1. loss in income because of changes in circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance; and/or
2. increased expenses because of changes in circumstances, such as increased medical costs, childcare, transportation, education, or similar items.

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## **X. Lease Termination Procedures**

### **A. General Policy: Lease Termination**

The Public Housing Lease (Lease) may be terminated by PHCD in compliance with HUD regulations 24 CFR § 966 and in accordance with the provisions contained in Chapter 83, Part II, of the Florida Statutes. At the time the notice of lease termination is sent, all residents will receive HUD form 5380, *Notice of Occupancy Rights under the Violence against Women Act* form, and HUD form 5382, *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation* form, at the time the applicant is denied assistance. See Chapter XIV—Violence Against Women Act of this ACOP for additional details.

The Lease may be terminated by the resident only after the end of the first year by giving 30 days written notice and upon compliance with all applicable procedures to properly vacate the unit and to depart in good standing.

PHCD shall have the right to terminate or refuse to renew the Lease for failure by the resident to fulfill their obligations set forth in the Lease agreement and for serious or repeated violations by the resident of one (1) or more of the material terms of the Lease (including residents under the Homeless Pilot Program). PHCD will not terminate the tenancy on the basis or as a direct result of the fact that the person is a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking. Termination may happen under the following circumstances:

1. A resident or any member of the household fails to fulfill their obligations under the Articles of the Lease, the Community Policies, or Tenant Rules and Regulations, and any additions or amendments to the Lease, Community Policies or Tenant Rules and Regulations.
2. A serious or repeated violation by the resident or any member of their household of one (1) or more terms of the Lease.
3. Denial or disconnection of utility services that are paid by the Resident. PHCD will not terminate assistance if the resident restores utility service legally and timely in compliance with 30-day notice to cure, or by the time the informal hearing takes place.
4. Tampering with utilities to illegally obtain service or changing the account to an adult person that is not listed in the Lease.
5. Any drug-related criminal activity, violent criminal activity, or non-violent criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of PHCD. Any such criminal activity that resulted in a conviction shall be cause for termination of tenancy, and for eviction from the dwelling unit (See Chapter III, Section E – Criminal Activity for additional details):
  - a) Drug-related criminal activity whether “on or off” the premises for the Resident, any member of their household, or a guest, and “on” the premises for other person under the Resident’s control. Drug-related criminal activity shall include illegal possession, illegal manufacture, sale, distribution, use and/or possession with intent to manufacture, sell, distribute or use a controlled substance;

- b) Violent criminal activity includes, but is not limited to: any criminal activity that has as one (1) of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, non-trivial bodily injury or property damage;
  - c) Non-violent criminal activity includes, but is not limited to: any activity that threatens the health, safety, or right to peaceful enjoyment by the residents, employees of PHCD or any other Miami-Dade County personnel or official;
  - d) A fugitive felon or parole violator after conviction of a crime or attempt to commit a crime is considered a person that threatens the health, safety and right to peaceful enjoyment of the premises by other residents or employees of PHCD;
  - e) PHCD will not consider criminal related activities for juvenile household members under the age of 18 unless they are tried as adults for certain criminal offenses or if the acts occur on PHCD property;
  - f) PHCD may also terminate assistance based on the conduct underlying arrests, only if the conduct indicates the individual is not suitable for tenancy and PHCD has sufficient evidence that the individual engaged in the conduct other than the fact of the arrest.
6. If an activity does not threaten the health, safety or right to peaceful enjoyment of the residents, but a warning has been issued to an individual or family, any subsequent warning regarding the same individual or family shall be considered a violation of the Lease.
  7. A record of alcohol abuse or pattern of abuse that poses a direct threat to the health or safety of others shall be considered a violation of the Lease.
  8. Failure by the resident to report to any reexamination interview or provide verification of any information required by PHCD to include failure to sign and submit consent forms or other documentation to determine eligibility in the program. Clients who fail to comply are provided a 30-day notice to correct the issue.
  9. Discovery of material false statements in connection with information provided at application or reexamination, or fraud committed by the resident in connection with any federally assisted housing program.
  10. For Public Housing residents only, failure to comply with Federal, State or local public assistance program requirements related to work activities, community service and self-sufficiency requirements.
  11. If the resident or any member of their household, a guest or a person under the resident's control engages in the illegal use, or threatened use of or display of firearms, fire bombs or other weapons on PHCD property.
  12. If the conduct of the resident, any member of their household, a guest or person under the resident's control, is such that there is a likelihood that their presence on the premises may lead to personal injury or property damage.
  13. For Public Housing residents, if school-age children do not attend school regularly and are absent more than 15 unexcused days within any 90-day period of a given school year

except in instances of death, serious illness or injury, or the child who attains the age of 16 years files a formal declaration of intent to terminate school enrollment with the School Board.

14. Serious or repeated damage to the dwelling unit, or the creation of physical hazards in the unit, common areas, grounds, or parking areas.
15. Extremely poor housekeeping, including hoarding and clutter that causes health and safety concerns or property damage.
16. Any fire on the premises caused by carelessness, failure to supervise children or unattended cooking.
17. If the resident, any member of their household, or a guest or person under the resident's control threatens, obstructs or interferes with a PHCD employee or any government official conducting official business on or around the premises.
18. The resident refuses to accept PHCD's proposed change(s) to the Lease.
19. If the resident repeatedly interferes with or does not follow the Lease or Community Policies, or if the Lease has expired and has not been renewed.
20. If through HUD's EIV system, PHCD verifies that one of the household members is also participating in another federally housing program and that they have not relinquished the assistance within 30 days from the date of the move-in. In that case, PHCD will require proof of the termination of the subsidized housing assistance prior to lease termination (see Chapter VI (E) (3) – Double Subsidy).
21. Tenants must use their unit address as their mailing address for all official PHCD correspondence. This correspondence includes but is not limited to reexamination appointments, rent change notifications, inspection appointments, inspection results, termination proceedings, etc. Exceptions may be made to this rule on a case-by-case basis, i.e. domestic violence victims or if a tenant is able to demonstrate that their mailbox has been tampered with and is unsecure by submitting official documentation from the US postal service and/or police records.
22. Being over-income in accordance with the parameters in Chapter VI of this ACOP.

#### B. Mitigating Circumstances

Before PHCD makes a decision to send a notice terminating assistance, PHCD shall consider all circumstances relevant to a particular case. This may include the seriousness of the offending action, the extent of participation by the leaseholder in the offending action, the effects that the eviction would have on family members not involved in the offending activity and the extent to which the leaseholder has shown personal responsibility and has taken all reasonable steps to prevent or mitigate the offending action (see Chapter III of this ACOP).

#### C. Notice Requirements

When PHCD proposes to terminate a lease, the termination shall follow all applicable Federal and State laws.

The notice of termination to the resident shall state the reasons for termination, inform the resident of their right to make reply, settlement, and/or request a grievance hearing in accordance with the Grievance and Appeal Policy, Chapter IX if this ACOP.

1. PHCD shall give a 7-day written notice of termination for serious violations of the Lease;
2. PHCD shall give the applicable written notice of termination (30-Day Notice of Termination for Non-payment of Rent) for a resident's failure to pay rent. Such notice shall not be sent until the rent becomes delinquent in accordance with the Lease; and
3. PHCD shall give a 30-day written notice of termination in any other case or cause.

D. Recordkeeping Requirements for Residents

In accordance to State of Florida records retention schedule, a written record of every termination and/or eviction shall be maintained by PHCD at the developments, and shall contain the following information:

1. Name of resident, race and ethnicity, number and identification of unit occupied;
2. Date of the Notice of Lease Termination and any other state or local notices required, which may be on the same form and run concurrently;
3. Specific reason(s) for the Notice(s), with section of the lease violated, and other facts pertinent to the issuing of the Notice(s) described in detail;
4. Date and method of notifying resident; and
5. Summaries of any conferences held with resident including dates, names of conference participants and conclusions.

Such records may be maintained electronically.



## **XI. Grievance and Appeal Policy**

When PHCD's action or failure to act has an adverse effect on a public housing applicant or resident's rights, duties, welfare or status, the applicant will be afforded an informal review and the resident will be afforded a grievance hearing.

The grievance and appeal process described in PHCD's Reasonable Accommodation Policy and Procedures (Appendix IV of the ACOP) shall be applied to those cases in which applicants or residents have been denied reasonable accommodation requests.

### **A. Applicant's Informal Reviews**

**1. Applicants during open registration who are not placed on the waiting list will not be offered an informal review.**

2. Applicants denied program participation or removed from the waiting list shall be notified of such determination in writing and provided with 30 calendar days to request an informal review, generally after the initial interview. It is an applicant's responsibility to notify ALC when there is a change in address. Applicants whose mail is returned by the post office will be automatically withdrawn from the waiting list.

3. If PHCD proposes to deny admission on the basis of a family member's criminal record, PHCD will provide the family member with a copy of the criminal record either before or at the informal review and provide an opportunity to dispute the accuracy and relevance of that record.

4. Once a waiting list is closed, only applicants that have had an interruption in the eligibility process may request an informal review. Applicants that have not been selected, did not show to initial interview, or refused a unit without good cause (see Appendix I – Definitions of this ACOP) will not be granted an informal review once the waiting list has been dissolved.

#### **5. Requesting an informal review**

Applicants may request an informal review in writing to the address or fax number indicated on the adverse action notice. The request must be made within 30 calendar days from the date of the notice. PHCD, at its sole discretion, may schedule an informal review at the applicant's request, beyond this timeframe, on a case-by-case basis. PHCD will schedule the review for the next available hearing date and forward written notification to the applicant.

#### **6. Informal Review Procedures**

a) The informal review will be conducted by designated PHCD staff that shall listen to testimony or other evidence that the applicant may wish to present.

b) Representatives from mixed finance developments (see Chapter I of this ACOP) may attend applicant's informal reviews to provide guidance on Low Income Housing Tax Credit (LIHTC) regulations and to explain reasons for denial of assistance.

- c) If the applicant fails to appear at a scheduled informal review, except for verifiable good cause (see Appendix I – Definitions of this ACOP), the applicant is in automatic default and the decision rendered by the designated PHCD staff in their absence shall be final.
- d) The final decision shall be made in writing within 30 calendar days of the informal review. In extenuating circumstances, PHCD Director or designee may review and modify the decision of an informal reviewer. However, the informal reviewer's decision shall not abridge any other rights the applicants have under law.

#### B. Resident's Grievance and Appeal

This resident grievance and appeal policy is based on the requirements, standards, and criteria set forth by U.S. Department of Housing and Urban Development, in the Code of Federal Regulations, Volume 24, Part 966-Lease and Grievance Procedures, with such modifications required by State and Local law. The policy shall be incorporated into and made a part of all the County Dwelling Leases for public housing governed by Part 966.

All residents of public housing are afforded ample opportunity for a fair and impartial hearing on matters involving the Public Housing Dwelling Lease executed between the resident and the County. This policy encompasses all other County instituted regulations which affect the resident's rights, welfare, or status, including victims of domestic violence under VAWA.

PHCD has included in this ACOP the Final Rule of the Streamlining Administrative Regulations (Docket No. FR5743-F-03) effective April 7, 2016, regarding the resident's grievance and appeal process.

#### C. Applicability (Availability) and Exclusions

The grievance and appeal procedure shall be applicable and available to all individual grievances, except in the following cases, which may not result in a lease termination:

##### 1. Non-Public Housing Lease, Rental or Purchase Agreements

This policy does not apply to the following Lease, rental or purchase agreements:

- The Section 23 and Section 10 Housing Assistance Payments Program
- The Section 8 Housing Assistance Payments Programs
- The Low-Rent Housing Ownership Opportunities Program (Turnkey II)

##### 2. Disputes between residents not involving PHCD.

##### 3. Residents filing a grievance on behalf of another resident who is not part of their own dwelling lease.

##### 4. Residents that file a grievance together (otherwise referred to as a class grievance).

5. Negotiating Policy Changes

This policy is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and PHCD. Only interpretations of policy may be grieved, not the policy itself.

6. Enterprise Income Verification (EIV) Discrepancies

Discrepancies in wages shown in data provided by the Enterprise Income Verification (EIV) system must be clarified through third party verifications to employers. For EIV versus Social Security Administration (SSA) benefit discrepancies, PHCD should request the resident to obtain a current, original SSA benefit letter within ten (10) business days of the interview day.

D. Definitions

For the purpose of this policy, the following definitions shall apply:

**AMP Administrator**

Shall mean the representative of PHCD who is responsible for the day-to-day operations and management of a public housing development. These responsibilities shall include, but are not limited to: lease enforcement, and property maintenance.

**Chief Hearing Officer**

Shall mean the Hearing Officer appointed by PHCD Director, to serve as the Chairperson of the Hearing Panel and render decisions on matters brought before it. This person shall also be responsible for all administrative details of the Hearing Panel.

**Complainant**

Shall mean any resident whose grievance is presented to the AMP administrator or designee of the development in which they reside.

**Development**

Shall mean a public housing facility, which is under the management of PHCD or its designee.

**Elements of Due Process**

Shall mean an eviction action or termination of tenancy in the State or Local court in which the following procedural safeguards are present by state:

- a) Adequate notice to the resident of the grounds for terminating tenancy and for eviction;
- b) Opportunity for the resident to examine all relevant documents, records, and regulations of PHCD prior to the trial or grievance hearing for the purpose of preparing a defense;
- c) Right of the resident to be represented by legal counsel;
- d) Opportunity to have their case heard before an impartial Hearing Officer or Hearing Panel;
- e) Opportunity for the resident to refute the evidence presented by PHCD,

including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense the resident may have; and

- f) The right to a written determination based on evidence presented at grievance hearing.

**Grievance or Complaint**

Shall mean any dispute which a resident may have with respect to a PHCD action or failure to act in keeping with the provisions of the Public Housing Dwelling Lease or other PHCD regulations. Such action or failure to act must adversely affect the rights, duties, welfare, or status of the resident bringing such dispute.

**Grievance Hearing**

Shall mean a proceeding at which a grievance is presented to a Hearing Officer or Hearing Panel. Deadlines to request a grievance hearing by the resident are as follows:

- Ten (10) working days of the date of the Notice of a planned adverse action (e.g., lease termination, maintenance charges, fines, fees, etc.).
- Ten (10) working days as of the date the grievance event occurred for any dispute.

**Hearing Officer**

Shall mean an individual appointed by PHCD Director, as defined in Section E of this Chapter to serve on the Hearing Panel and render decisions on matters brought before it.

**Hearing Panel**

Shall mean a panel of three (3) persons in accordance with Section E of this Chapter.

**Resident**

Shall mean the adult person or persons other than a live-in aide who resides in the unit and who has an executed Dwelling Lease with the County as the lessee of the dwelling unit. If no such person now resides in the unit, this shall refer to the remaining head of household of the original Lease who continues to reside in the unit.

E. Hearing Officer or Hearing Panel

- 1. PHCD may have a Hearing Officer or Hearing Panel.

- a) Hearing Officer

The Hearing Officer shall be a PHCD employee appointed by PHCD Director or designee, but such employee cannot be the public housing AMP Administrator or a member of their staff, from the development at which the resident submitting the grievance (complainant) resides. The Hearing Officer will maintain a log of all decisions made available, upon request, to the complainant or complainant's representative.

- b) Hearing Panel

The Hearing Panel shall be three (3) people.

- (1) A Chief Hearing Officer who shall be a PHCD employee appointed by PHCD Director or designee; however, they cannot be the AMP administrator or a member of their staff at the development at which the resident submitting the grievance (complainant) resides. The Chief Hearing Officer will maintain a log of all decisions made available, upon request, to the complainant or complainant's representative.
  - (2) Two (2) members shall be resident representatives:
    - (a) One (1) representative shall be from the Overall Tenant Advisory Council (OTAC).
    - (b) One (1) representative shall be nominated by the Resident Council representative of the development in which the complainant resides. If the development does not have a recognized Resident Council, then OTAC will appoint a resident or OTAC member from the respective region.
    - (c) If OTAC or the development's Resident Council fail to nominate their respective representative, or in the event that the OTAC representative or the resident representative who lives at the development does not show up to the grievance hearing, the complainant may sign the "*Waiver of Panel Member for Public Housing Hearing Panel*" form in order to conduct the grievance hearing.
2. Representatives from mixed finance developments (see Chapter I of this ACOP) may attend grievance hearings to provide guidance on Low Income Housing Tax Credit (LIHTC) regulations and to explain reasons for adverse action.

#### F. Informal Settlement of a Grievance

1. As a condition prior to a grievance hearing, all grievances shall be personally presented, either orally or in writing, for informal settlement process to the AMP Administrator so that the grievance may be discussed informally and settled without a grievance hearing. The resident may be requested to complete a grievance hearing request form.
2. The AMP Administrator or designee will hold an informal settlement conference with complainant to address grievance, complete the "*Summary of Discussion-Informal Settlement of a Grievance*" form, and provide a copy of the form to the complainant, which will specify the following:
  - Date of the conference
  - Names of the participants
  - Complaint
  - Disposition of Complaint
  - Procedures to request a grievance hearing, if unresolved
3. If the complainant is not satisfied with the results of the informal settlement process, the complainant may request a grievance hearing within five (5) working days from the date of receipt of the "*Summary of Discussion-Informal Settlement of a Grievance*" form. If the complainant does not request a grievance, the disposition of the grievance under the informal settlement process will become final.

## G. Procedures for Obtaining a Grievance Hearing

### 1. Requesting a Grievance Hearing

Residents must request a grievance hearing in writing within five (5) business days of receiving the results of the informal settlement process (see Section F of this Chapter) from their AMP Administrator or designee, subject to Section C of this Chapter. The written request must specify:

- a) The reason(s) for the grievance; and
- b) The action or relief sought.

### 2. Scheduling a Grievance Hearing

Upon compliance by a resident with provisions of this policy, a grievance hearing shall be scheduled within 30 days from receipt of the request for the next available date. By written notification from the Hearing Officer or Chief Hearing Officer, the date, time, location, and the procedures governing the grievance hearing will be made available to all parties to the complaint.

### 3. Grievance Hearings by Telephone

A grievance hearing may be held via telephone conference, if requested no less than three (3) business days prior to the grievance hearing, in situations where a health condition or mobility prevents any of the parties from attending the grievance hearing in person. A grievance hearing via telephone conference for any other reason shall be at the discretion of the Hearing Officer or Chief Hearing Officer. Grievance hearings held by telephone conferences are not allowed simply for the convenience of any of the parties.

## H. Procedures for the Conduct of Grievance Hearings

### 1. Venue

The grievance hearing shall be held before the Hearing Officer or Panel at PHCD's main office or the development in which the complainant resides, unless otherwise relocated for good cause.

### 2. Due Process

- a) The parties may be represented by legal counsel or another person chosen as a representative.
- b) The opportunity will be provided to the resident to examine before the grievance hearing and, at the resident's expense, to copy all documents, records, and regulations of PHCD that are relevant to the grievance hearing, unless otherwise prohibited by law and in the event of hardship. In the event PHCD does not comply with a request to provide the resident with a copy of their file prior to the grievance hearing, PHCD is prohibited from relying on the contents of the file at the grievance hearing as set forth in the federal regulations. Therefore, any document not so made available after a request by the resident may not be relied on by PHCD at the grievance hearing.

- c) The resident or their representative has the right to present evidence and arguments in support of their complaint, to controvert evidence relied on by the County or the AMP administrator, and to confront and cross-examine all witnesses on whose testimony or information the County or the AMP administrator relies.
  - d) PHCD will provide reasonable accommodations to persons with disabilities for equal opportunity to participate in the grievance hearing (see Appendix IV of this ACOP).
  - e) Limited English Proficiency (LEP) persons have the right to be provided with assistance in accordance with the LEP policy (see Chapter I of this ACOP).
  - f) The resident has the right to a swift decision, rendered, and based only on the evidence presented at the Grievance Hearing.
3. Failure to appear
- a) If the complainant should fail to appear for a scheduled grievance hearing, except for verifiable good cause, they shall be in automatic default and the decision rendered by the Hearing Officer or Hearing Panel in their absence shall be final.
  - b) In the event that the Resident Council Representative or the resident representative who lives at the development fails to appear, the resident may sign the "*Waiver of Panel Member for Public Housing Hearing Panel*" form in order to conduct the grievance hearing.
  - c) The complainant and PHCD shall be notified of the determination by the Hearing Officer or Panel. A determination that the complainant has waived their rights to a grievance hearing shall not constitute a waiver of any right that the complainant may have to contest the disposition of the complaint in an appropriate judicial proceeding.

4. Showing of Entitlement

At the Grievance Hearing the complainant must first make a showing of an entitlement to the relief sought. Thereafter, PHCD has the burden of justifying the action or failure to act, against which the complaint directed.

5. Conduct of Grievance Hearings

The Grievance Hearing shall be conducted by the Hearing Officer or Chief Hearing Officer and 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.

The Hearing Officer or Chief Hearing Officer shall require PHCD, the complainant, OTAC, Resident Council representative, and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the Hearing Officer or Chief Hearing Officer may result in exclusion from the proceedings, decisions adverse to the interest of the disorderly party, or denial of the relief sought, as appropriate.

## 6. Verification

The Hearing Officer or Panel must verify any document provided by the resident, such as evidence of completion of rehabilitation program or any other proof or testimony provided, before submitting the decision letter to uphold or overturn the denial of assistance

## 7. Transcript of Hearings

The complainant or PHCD may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the grievance hearing. Any interested party may purchase a copy of such transcript.

## I. Decision of the Hearing Officer or Hearing Panel

### 1. Decision

The decision of the Hearing Officer or Panel shall be based solely and exclusively upon the facts and evidence presented at the grievance hearing, mitigating circumstances, and upon applicable PHCD and Federal regulations and requirements.

Within 14 calendar days of the grievance hearing, the Hearing Officer or Chief Hearing Officer shall prepare a written decision, which shall contain the reasons supporting such decision. A copy of the decision shall be sent to complainant. The County shall retain a copy of the decision in the resident's lease file or such other folder.

The Hearing Panel must reach a majority decision. However, when members of the Hearing Panel are not in agreement, the Chief Hearing Officer may refer the case to PHCD Director or designee for the final decision, who may request additional information and/or interview with the resident, if deemed necessary.

The decision of the Hearing Officer or Panel shall be final. In extenuating circumstances, upon the resident's written request for review, PHCD Director may modify the decision of a Hearing Officer or Panel. The Hearing Officer or Panel's decision, however, shall not abridge any other rights the residents have under law.

### 2. Continuing Rights

A decision by the Hearing Officer or Panel in favor of PHCD, or which denies the relief requested by the complainant in whole or in part, shall not constitute a waiver of, or affect in any manner whatever, their rights. Nor shall the decision affect in any manner whatever, any rights the complainant may have to a trial or other review in any judicial proceeding which may thereafter be brought in a matter.

### 3. Copies of Grievance Hearing Decision Letters

Copies of grievance hearing decision letters in addition to any documents or testimony presented at the grievance hearing are kept on file as per State of Florida retention schedules by the Hearing Officer, Chief Hearing Officer, or on site.



## J. Eviction Actions

If a resident has requested a grievance hearing in accordance with Section G of this Chapter, the eviction procedure is suspended until the Hearing Officer or Panel produces its written decision. If the Hearing Officer or Panel upholds the decision of PHCD to terminate the tenancy, eviction proceedings may be instituted immediately. If the resident fails to quit the premises within the applicable statutory period, or on the termination date stated in the notice of termination, whichever is later, appropriate action brought against them which may require that they pay court costs and attorney fees.

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## **XII. Utilities and Maintenance Charges**

### **A. Utilities**

This section establishes the procedures for utility allowances for utilities purchased by residents of public housing developments. Utilities are defined as electricity, gas, water and sewer. Telephone and cable television are not considered utilities under this policy.

Effective January 1, 2024, upon the implementation of the Housing Opportunity through Modernization Act of 2016 (HOTMA) and applicable regulations and guidelines promulgated by HUD, foster children and foster adults are household members and will be considered when determining utility allowance.

#### **1. Standard for utility consumption allowances**

PHCD shall establish for each development, a consumption allowance based on bedroom size that will afford a reasonable consumption of utilities by an energy conservative household of modest circumstances consistent with the requirement of a safe, sanitary and healthful living environment. The consumption allowance shall be a uniform monthly amount based on an average monthly utility requirement for a year.

#### **2. Review and revision of allowance**

- a) Annual review: PHCD shall review the utility allowances annually or in accordance with federal regulatory requirements and shall adjust the amount of utility allowance if necessary to reflect changes in utility rates and/or utility consumptions.
- b) Interim revision due to rate changes: PHCD may revise its utility allowances for resident-purchased utilities between annual reviews if there is a rate change (including fuel adjustments). PHCD is required to do so if a rate change, by itself or together with prior rate changes not adjusted for, results in a change of 10% or more from the rates on which such allowances were based.
- c) Schedule of Utility Allowances: Schedules of utility allowances for each development are posted on the bulletin board in each development office and will be made available to the resident upon request.
- d) Relief from excess consumption: Residents may request relief from excess utility consumption if the request is based on medical needs of the elderly, ill or disabled resident or for special factors affecting utility usage not within the control of the resident.

### **B. Utilities Paid by the Resident**

1. Utility accounts established and maintained by the residents must be in the name of an adult family member listed in the Public Housing Lease. Illegal tampering to obtain utility services or changing the utility accounts to an adult person that is not listed in the Public Housing Lease are grounds for termination of the Lease.
2. Some buildings have master meters that are currently paid by PHCD. Due to utility modernization, however, building master meters may be replaced by individualized meters causing the utility costs to become the responsibility of the resident.

3. Residents are responsible for monitoring their utility consumption.

C. Maintenance Charges

1. This section establishes the procedures for maintenance charges in Public Housing developments.
  - a) A list of maintenance charges is posted in the development offices and will be made available to residents upon request.
  - b) Residents will be charged for materials and services as shown on the price list in effect at the time of repair for damages that are intentional or caused by negligence of the residents.
  - c) PHCD will notify the resident by mail or in person of any maintenance charges for which they will be billed. A resident may then request a grievance hearing under the grievance procedure.
  - d) If a resident requests a grievance hearing to dispute maintenance charges, the charges will not become due until the grievance process has been completed.
2. Move-Out Charges:
  - a) Upon the move out inspection, residents will be held responsible for all damages beyond normal wear and tear to the unit and appliances.
  - b) Damages beyond normal wear and tear that are not repaired will be charged to the resident's security deposit and if necessary the resident's account at the time of move- out. The price list in effect at the move-out will be utilized to price labor and materials.
  - c) Photographs of the damages will be maintained in the tenant file in accordance with the retention schedule.

### **XIII. Fair Housing and Equal Opportunity**

#### **A. Non-discrimination Policy**

1. PHCD complies with all federal, state, and local antidiscrimination laws including, but not limited to: the Fair Housing Act; Section 504 of the Rehabilitation Act of 1973; and the Americans with Disabilities Act.
2. No person shall, on the basis of race, color, sex, religion, national or ethnic origin, familial status, marital status, status as a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking, actual or perceived sexual orientation, gender identity or gender expression, ancestry, age, pregnancy, disability, or source of income be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under programs operated and/or funded by PHCD.
3. PHCD prohibits inquiries regarding actual or perceived sexual orientation, gender identity or gender expression, which includes but is not limited to whether a person is transgendered.
4. PHCD will provide applicants and participants with federal/state/local information regarding discrimination and any recourse available to them if they believe they may be victims of discrimination.
5. PHCD will display the Fair Housing poster at PHCD, Public Housing and Section 8 New Construction site offices. Upon eligibility determination, applicants will be provided with the Housing Discrimination Complaint form and information pertaining to procedures to be followed if the applicant believes they have experienced illegal discrimination.

#### **B. Processing Non-Discrimination Complaints and Reasonable Accommodation Requests**

1. All applicable Fair Housing Information and Discrimination Complaint forms will be made available at PHCD's 504/ADA Coordinator's office and/or by the 504/ADA Coordinator mailing copies of information to person requesting same. In addition, all appropriate written information and advertisements will contain the appropriate written information, and advertisements will contain the appropriate Equal Opportunity language and logo.
2. PHCD's 504/ADA Coordinator will assist any family that believes they have been discriminated against by providing copies of the federal and local housing discrimination forms and the addresses of the applicable offices. In addition, PHCD's 504/ADA Coordinator will facilitate conciliation of discrimination complaints upon the request of complainants (see Appendix I- Definitions), to the greatest extent feasible.
3. PHCD will cooperate with HUD in conducting monitoring and compliance reviews and complaint investigations, pursuant to all applicable civil rights statutes and regulations, Executive Orders, and all civil rights related program requirements.
4. Reasonable accommodation requests are processed through the 504/ADA Coordinator's office (refer to Section E of this Chapter).

C. Effective Communication Policy

PHCD has an Effective Communication Policy to ensure effective communication with applicants, residents, program participants, employees, and people with disabilities. Such policy is Appendix II of this ACOP.

D. Emergency Evacuation Assistance Program Procedures

In case of emergency, PHCD will take all necessary steps to address specific needs of its residents in consistency with the Miami-Dade County Emergency Evacuation Assistance Program, as described in Appendix III of this ACOP.

Additionally, PHCD's Emergency Management Manual will continue to be reviewed to ensure that it contains all necessary provisions required for people with disabilities in emergency conditions.

E. Reasonable Accommodation Policy and Procedures

PHCD's Reasonable Accommodation Policy and Procedures, as referenced through this ACOP, is Appendix IV of this ACOP.

## **XIV. Violence Against Women Act (VAWA)**

### **A. Overview**

Under the 2013 reauthorization of the Violence Against Women Act (VAWA) and Miami-Dade County Resolution No. R-644-12, PHCD is required to implement internal policies to include provisions for protection of victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, regardless of sex, gender identity, gender expression or actual or perceived sexual orientation. For definitions of terms under this chapter, refer to Appendix I of this ACOP.

### **B. Notification of Occupancy Rights under VAWA**

PHCD provides applicants and residents with the HUD form 5380, *Notice of Occupancy Rights under the Violence Against Women Act* form, that explains the VAWA protections, including the right to confidentiality, and any limitations on those protections.

PHCD also provides applicants and residents with HUD form 5382, *Certification of Domestic Violence, Dating Violence, Sexual Assault, Stalking or Alternate Documentation* form to be completed by the victim to document that the applicant or resident is a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking.

The Lease, Lease addendum, or tenancy addendum, as applicable, shall include a description of specific protections afforded to the victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking.

### **C. Protections Provided Under the VAWA**

VAWA provides specific protections for victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking.

1. VAWA provides that PHCD may not deny admission or assistance to an applicant on the basis or as a direct result of the fact that the person has been a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking if the applicant otherwise qualifies for admission or assistance.
2. Provides that PHCD may not terminate the Lease of a family that moves out of the dwelling unit in violation of the Lease, with or without prior notification to PHCD, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit.
3. Provides that an incident or incidents of actual or threatened domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the Lease of the victim.
4. Provides that criminal activity directly related to domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking may not be construed as cause for terminating the Lease of a resident if a member of the resident's household, a

guest, or another person under the resident's control is the one engaging in the criminal activity and the resident or affiliated individual or other individual is the actual or threatened victim of the domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking.

5. Provides PHCD with the authority to terminate the Lease to any resident or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence.

D. Limitations of VAWA Protections

1. Nothing in this section limits the authority of PHCD, when notified of a court order, to comply with respect to the rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, or the distribution of property among household members.
2. Nothing in this section limits any available authority of PHCD to evict or terminate assistance to a resident or tenant for any violation not premised on an act of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. However, PHCD must not subject the tenant, who is or has been a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking, or is affiliated with an individual who is or has been a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate assistance.
3. Nothing in this section limits the authority of PHCD to issue a termination of lease or evict a tenant if PHCD can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to property or site would be present if that tenant or lawful occupant is not evicted or terminated from assistance. In this context, words, gestures, actions, or other indicators will be considered an "actual and imminent threat" if they meet the standards provided in the definition of "actual and imminent threat" in Appendix I of this ACOP.
4. Any termination of lease or eviction, as provided in paragraph D(2) of this section should be utilized only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property or site, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents.

E. Evidence Required as Proof of Domestic Violence, Dating Violence, Sexual Assault or Stalking

When confronted with cases of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or Stalking, PHCD must provide the alleged victim with HUD form 5382, *Certification of Domestic Violence, Dating Violence,*

*Sexual Assault or Stalking and Alternate Documentation* and request that it be returned within 14 business days. PHCD may, but is not required, to extend the time period to submit the documentation with the approval of the division director or designee. In response to this request, the resident may complete HUD form 5382 or provide one of the following types of third party documentation:

- a) Court records (e.g., restraining and civil protection orders) or statements from a judge or other court officials;
- b) Medical records or statements from mental health professionals or medical professionals from whom the victim sought assistance in addressing domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking;
- c) Police reports or statements (e.g., records of police visits to the victim's address or telephone calls, which may include telephone calls to the police registering a complaint, a log of police runs made to the residence, and copies of all tapes and reports written by officers responding to a call);
- d) Reports or statements signed by workers (collectively, "professionals") from a domestic violence shelter or domestic violence program attesting to the time the victim spent in the shelter and the correlation to the incidents of abuse;
- e) Statements signed by a clergy or social worker, other employee, agent, or volunteer of an administrative agency, social service agency, victim service provider, domestic violence program, clergy, counselor, or attorney (collectively, "professional") from whom the victim sought assistance in addressing domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking.
- f) Other credible evidence as corroborated by law enforcement or domestic violence providers.

Statements signed by above-mentioned professionals must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence occurred and meet the definition of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking. Same statements must also be signed by the victim.

## 2. Conflicting Evidence

- a) If PHCD receives conflicting evidence that an incident of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), PHCD may request third-party documentation from victims in order to resolve the conflict.
- b) The victim must provide the third party documentation within 30 days. If the victim fails or refuses to provide third-party documentation where there is conflicting evidence, PHCD does not have to provide the victim with the protections contained in this policy.



F. Considerations for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking

PHCD must consider:

1. The nature and severity of each case while exercising discretion on whether or not family members or their guests pose an actual **and** imminent threat to the health, safety, or right to peaceful enjoyment of the premises by others. Any eviction or termination of assistance taken on this basis should only be used when there are no other actions that can be taken to reduce or eliminate the threat, including but not limited to:
  - a) Transferring the victim
  - b) Barring the perpetrator from the property
  - c) Lease bifurcation
  - d) Contacting law enforcement
2. Undertaking whatever actions permissible and feasible under PHCD's programs to assist victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking (e.g., bear the cost of the transfer, the possible issuance of a Section 8 voucher, etc.), subject to availability of funding and resources and approval from PHCD Director.
3. Removing the perpetrator of domestic violence from the Lease, while the remaining family members stay in the assisted unit, upon approval of the division director or designee.
4. The effects of denial or termination of assistance on other family members who were not involved in the offense.
5. The conditions barring the culpable household member from residing in or visiting the unit.
6. The circumstances relevant to an eviction or termination of tenancy based on the extent to which the person has shown personal responsibility to prevent the offending action, and the time that has elapsed since their arraignment for that crime.
7. The range of evidence as proof of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, which may include, but is not limited to victim's statement, testimony or affidavit outlining the facts of the violence or cruelty in each incident, utilizing form HUD-5382.

G. Emergency Transfer Plan

1. PHCD is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking. In accordance with the Violence Against Women Act (VAWA), PHCD allows tenants who are victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit.
2. The ability to request a transfer is available regardless of sex, gender identity, gender expression, or actual or perceived sexual orientation. The ability of PHCD to honor such request for tenants currently receiving assistance, however, may depend upon a

preliminary determination that the tenant is or has been a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking, and on whether PHCD has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

3. This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the Federal agency that oversees that PHCD is in compliance with VAWA.

#### H. Eligibility for Emergency Transfers

1. A tenant who is a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking is eligible for an emergency transfer under the following conditions:
  - If the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit that the tenant is occupying; or
  - If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.
2. A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.
3. Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

#### I. Emergency Transfer Request Documentation

1. To request an emergency transfer, the tenant shall notify PHCD's management office and submit a written request for a transfer. PHCD will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:
  - A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under PHCD's program; or
  - If applicable, a statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

#### J. Confidentiality

The information under the *Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking and Alternate Documentation* form will remain confidential and will be used by PHCD only to provide the victims with the exceptions and protections under VAWA.

1. PHCD must ensure that private information of victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking is protected in accordance with VAWA requirements.

2. PHCD and/or its designee will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives PHCD written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking against the tenant. See the *Notice of Occupancy Rights under the Violence Against Women Act* form for more information about PHCD's responsibility to maintain the confidentiality of information related to incidents of domestic violence, economic abuse, technological abuse, dating violence, sexual assault, or stalking.
- K. Emergency Transfer Timing and Availability
1. PHCD and/or its designee cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. PHCD and/or its designee will, however, act as quickly as possible to move a tenant who is a victim of domestic violence to another unit, subject to availability and safety of a unit.
  2. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. PHCD may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.
  3. If PHCD has no safe and available units for which a tenant who needs an emergency is eligible, PHCD will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, PHCD and/or its designee will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence that are provided with HUD form 5380.
- L. Safety and Security of Tenants
1. Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.
  2. Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).
  3. Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.
  4. Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.
  5. Tenants who are or have been a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking will be provided with

HUD form 5380 that includes a list of local organizations offering assistance to victims of domestic violence.

M. Lease Bifurcation

1. PHCD may, in accordance with paragraph 2 of this section, bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, economic abuse, or technological abuse, against an affiliated individual or other individual:
  - Without regard to whether the household member is a signatory to the lease; and
  - Without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant.
2. A lease bifurcation, as provided in paragraph 1 of this section, shall be carried out in accordance with any requirements or procedures as may be prescribed by Federal, State, or local law for termination of assistance or leases and in accordance with any HUD requirements.

N. Reasonable Time to Establish Eligibility for Housing Assistance or to Find Alternative Housing

1. If PHCD exercises the option to bifurcate a lease and the individual who was evicted was the eligible tenant, PHCD will provide to the remaining tenant or tenants that were not already eligible a period of 90 calendar days from the date of bifurcation of the lease to establish:
  - eligibility under the same program, or
  - establish eligibility under another covered housing program (see definition in Appendix I), or
  - find alternative housing.
2. The 90-calendar-day period will not be available to a remaining household member if the statutory requirements for the same program prohibit it.

Note that if the remaining family members have not provided evidence of citizenship or eligible immigrations status, the tenant or tenants will be provided with 30 days to provide such evidence in accordance with 24 CFR, Part 5 Subpart L (refer to Chapter III of this ACOP).

3. The 90-day calendar period also will not apply beyond the expiration of a lease, unless this is permitted by program regulations.
4. PHCD may extend the 90-calendar-day period up to an additional 60 calendar days, unless prohibited from doing so by statutory requirements of the covered program or unless the time period would extend beyond expiration of the lease.

O. Assistance for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking

1. PHCD shall refer victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking to the State of Florida Office of the Attorney General, State Attorney's Office or the Department of Law Enforcement to apply for participation in the Address Confidentiality Program for Victims of Domestic Violence.

2. PHCD may collaborate with appropriate counseling and law enforcement entities to assist victims of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, including but not limited to the following services and programs for domestic violence victims:
  - a) Certified Domestic Violence Centers:
    - Safespace Shelter: 305-758-2804
    - The Lodge: 305-693-1170
  - b) Domestic Violence One Stop Center:
    - Coordinated Victims Assistance Center (CVAC): 305-285-5900

P. Non-discrimination

Pursuant to VAWA and the policies of Miami-Dade County, no applicant or tenant shall, on the basis of actual or perceived race, color, religion, national or ethnic origin, sex, familial status, marital status, status as a victim of domestic violence, economic abuse, technological abuse, dating violence, sexual assault or stalking, gender identity or gender expression, actual or perceived sexual orientation, disability, ancestry, age, pregnancy, or source of income be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under VAWA.

# **PUBLIC HOUSING AND COMMUNITY DEVELOPMENT**

## **DEFINITIONS**

### **APPENDIX I OF THE ADMISSIONS AND CONTINUED OCCUPANCY POLICY**

Effective Date:

## **APPENDIX I**

### **Definitions**

#### **Admission Preference**

Any preference, to the extent authorized by law, the Agency may establish for use in selecting among applicants that respond to local housing needs and priorities.

#### **Actual and Imminent Threat (24 CFR §5.2003)**

A physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: The duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

#### **Adult**

A person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State or tribal law.

#### **Affiliated Individual (24 CFR §5.2003)**

With respect to an individual, means a spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or any individual, tenant, or lawful occupant living in the household of that individual.

#### **Applicant**

A person or family that has applied for housing assistance.

#### **Arrested**

Taking or seizing a person by legal authority, such as the police, in response to a criminal charge.

#### **Bifurcate (24 CFR §5.2003)**

To divide a lease as a matter of law, subject to 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.

#### **Childcare Expenses**

Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

#### **Child/Minor**

A member of the family (other than the family head or spouse) who is under 18 years of age.

**Complainant** (HUD Federal Register Vol. 81 #25 and 24 CFR §966.53)

Any resident whose grievance is presented to PHCD or at the development management office.

**Continuity of Assistance**

A family is considered continuously assisted if it has been receiving housing assistance under any program of the U.S. Housing Act of 1937 without experiencing an extended interruption during the occupancy of the assisted unit. An interruption of four (4) months between the assisted occupancy of one unit and the assisted occupancy of another unit is considered discontinued assistance.

**Conviction**

A formal declaration that a person has been found guilty of a criminal offense by a verdict of a jury or a judge in a court of law.

**Covered Housing Program (24 CFR §5.2003)**

The following HUD programs must afford VAWA Protections:

- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for Persons with Disabilities
- Housing Opportunities for Persons With AIDS (HOPWA)
- HOME Investment Partnerships (HOME)
- Homeless programs under title IV of the McKinney-Vento Homeless Assistance Act (including the Emergency Solutions Grants, the Continuum of Care, and the Rural Housing Stability Assistance
- Multifamily rental housing under section 221(d)(3) of the National Housing Act with a below-market interest rate (BMIR) pursuant to section 221(d)(5)
- Multifamily rental housing under section 236 of the National Housing Act
- Public Housing
- Section 8 Housing Choice Voucher
- Section 8 Project-Based Vouchers
- Section 8 Moderate Rehabilitation Single Room Occupancy
- The Housing Trust Fund

**Covered Housing Provider (24 CFR §5.2003)**

The individual or entity under a covered housing program that has responsibility for the administration and/or oversight of VAWA protections and includes public housing agencies, sponsors, owners, mortgagors, managers, State and local governments or agencies thereof, nonprofit or for-profit organizations or entities.

**Criminal Records**

All criminal arrest records, including but not limited to sex offender registration records for all family members 18 years and over. PHCD will conduct such checks on household members who are younger than 18 years only if they are being tried as adults for certain criminal offenses. The term “criminal records” does not include records unavailable to PHCD by operation of law, including sealed or expunged records, juvenile records, exempt records under Florida’s Public Records Act, or other records unavailable to PHCD under state and federal laws.

**Dating Violence (24 CFR §5.2003 and the Florida Statutes)**

The federal regulations defines “dating violence” as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- the length of the relationship;



- the type of relationship; and
- the frequency of interaction between persons involved in the relationship.

The Florida Statutes defines “dating violence” as violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

- A dating relationship must have existed within the past six (6) months;
- The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
- The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.

### **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.

### **Deconcentration of Income**

The admission of higher income families (50-80%) of area median income to developments where extremely low income families predominate and vice versa.

### **Dependent**

A dependent is a family member (except for foster children and foster adults), who is either:

- under 18 years of age,
- a person with disabilities, or
- a full-time student

**Note** a family head of household and/or spouse are not eligible for a dependent deduction.

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

### **Disability Assistance Expenses**

Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus. These allowances are given when calculating adjusted income for attendant care and auxiliary apparatus in excess of ten (10) percent of annual income.

### **Disabled Family (HUD Equal Access Rule, PIH Notice 2014-20, and 24 CFR §5.403)**

A family whose head, co-head, spouse, or sole member is a person with disabilities; or two (2) or more persons with disabilities living together; or one (1) or more persons with disabilities living with one or more live-in aides.

**Discriminatory Effect**

A practice has a discriminatory effect where it actually or predictably results in a disparate impact on a group of persons or creates, increases, reinforces, or perpetuates segregated housing patterns because of race, national or ethnic origin, color, sex, religion, age, disability, familial status, marital status, status as a victim of domestic violence, dating violence, sexual assault or stalking, ancestry, actual or perceived sexual orientation, gender identity or gender expression, pregnancy or source of income.

**Displaced Family (24 CFR §5.403)**

Includes persons who can document that they have been displaced by a natural disaster declared by the President of the United States, displaced through no fault of their own, by governmental action, or displaced by domestic violence.

**Displacement Due to Governmental Action**

Activity carried on by an agency of the United States or by any State or local governmental body or in connection with code enforcement or a public improvement or development program.

**Domestic Violence (24 CFR §5.2003 and the Florida Statutes)**

The term ‘domestic violence’ includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the 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 who—

- is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;
- is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- shares a child in common with the victim; or
- commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.”

**Drug-related Criminal Activity**

Illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug, with the intent to manufacture, sell, distribute or use the drug.

**Due Process**

Shall mean an eviction action or a termination of tenancy in a State or local court in which the following procedural safeguard are present by state:

- Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction;
- Opportunity for the resident to examine all relevant documents, records, and regulations of PHCD prior to the trial or grievance hearing for the purpose of preparing a defense;
- Right of the tenant to be represented by counsel;
- Opportunity for the tenant to refute the evidence presented by PHCD including the right to confront and cross-examine witnesses or equitable defense which the tenant may have;
- Opportunity to have their case heard before an impartial Hearing Officer or Hearing Panel; and
- The right to a written determination based on evidence presented at grievance hearing.

**Economic Abuse**

The term 'economic abuse', in the context of domestic violence, dating violence, and abuse 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 personal 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 interests of a person to whom one has a fiduciary duty.

**Earnings and Benefits**

Means the incremental earnings and benefits resulting from a qualifying employment training program or subsequent job.

**Elderly Family (HUD Equal Access Rule, PIH Notice 2014-20, and 24 CFR §5.403)**

A Family whose head, co-head, spouse, or sole member is a person who is at least 62 years of age; or 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 (1) or more live-in aides.

**Elderly Person**

A person 62 years of age or older.

**Eligibility Income**

This is Annual Income amount which is compared to USHUD approved Income Limits to determine if an applicant family is eligible for admission to the housing program.

**Extremely Low Income**

**(HUD Federal Register Vol. 79 #122 dated 6-25-14 and Vol. 81 #45 dated 3-8-16)**

A very low-income family whose annual income does not exceed the higher of:

- The poverty guidelines established by the U.S. Department of Health and Human Services applicable to the family of the size involved; or
- Thirty (30) percent 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 percent of the area median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Ethnicity Categories**

There are two ethnicity categories:

- a) Hispanic or Latino. A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term "Spanish origin" can be used in addition to "Hispanic" or "Latino."
- b) Not Hispanic or Latino. A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

**Family**

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

(1) A single person, who may be:

- (i) An elderly person, displaced person, disabled person, near-elderly person, 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; or

- (2) A group of persons residing together, and such group includes, but is not limited to:
- (i) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
  - (ii) An elderly family;
  - (iii) A near-elderly family;
  - (iv) A disabled family;
  - (v) A displaced family; and
  - (vi) The remaining member of a tenant family

**Family Income**

Family Income means the annual earned and unearned income derived from all sources of the family members expected to reside in the dwelling unit and upon which rent is to be based. The terms earned income and unearned income are defined as follows:

**Earned Income**

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

**Unearned income**

Any annual income, as calculated under 24 CFR § 5.609, that is not earned income.

**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 judgement, decree or other order of any court of competent jurisdiction.

**Foster Child**

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

**Full-Time Student**

A person registered for and carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree.

**Fraud**

Deceit or trickery deliberately practiced to gain some advantage dishonestly. Fraud is an intentional deception and is not committed accidentally.

**Gender Expression**

All of the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns and social interactions. Social or cultural norms can vary widely and some characteristics that may be accepted as masculine, feminine or neutral in one culture may not be assessed similarly in another.

**Gender Identity (HUD Equal Access Rule, PIH Notice 2014-20, and 24 CFR §5.100)**

Gender identity means actual or perceived gender-related characteristics.

**Good Cause**

With respect to refusal of a unit housing offer, “good cause” shall mean that an applicant or resident who are offered a unit can demonstrate through objective evidence that a move into the unit offered would result in a hardship related to the ability of the applicant or resident to conveniently use the facility. Examples of good cause are included in Chapter III of this policy).

With respect to not attending a scheduled appointment or not providing required documentation, “good cause” shall mean that an applicant or resident can demonstrate through objective evidence that circumstances beyond the applicant/resident’s control resulted in non-compliance. Examples may include illness, hospitalization, or emergency incidents.

**Grievance or Complaint**

Shall mean any dispute which a resident may have with respect to a PHCD action or failure to act in keeping with the provisions of the Public Housing Dwelling Lease or other PHCD regulations. Such action or failure to act must adversely affect the rights, duties, welfare, or status of the resident bringing such dispute.

**Head of Household**

The family member who is 18 years or older and held responsible and accountable for the family, normally considered to be the official tenant of record or the lessee.

**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 body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period of which annual income is computed. A deduction for elderly or disabled families only.

**HUD or USHUD**

United States Department of Housing and Urban Development

**Hearing**

A proceeding at which a resident's grievance relating to PHCD's adverse action or decision, is heard in order to insure that the complainant's rights were not violated.

**Homeless Family**

Category 1: An individual or family who ***lacks a fixed, regular, and adequate night time residence***, meaning:

- a) An individual or family with a primary night-time residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
- b) An individual or family living in a supervised publicly or privately operated shelter

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designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); **or**

- c) An individual who is exiting an institution where they resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
- d) An individual or family transitioning out of permanent supportive housing.

### **Homeownership Opportunities**

After October 28, 1998, any homeownership opportunities shall mean any homeownership units developed, purchased, or redeveloped by Miami-Dade County solely or as a joint venture with any other entity Income Eligibility for Admission.

At least 40% of families admitted to the Public Housing program in each fiscal year must have incomes that do not exceed extremely low income levels. In each fiscal year, PHCD may reduce the targeted public housing admissions to the extent that PHCD provides tenant-based Section 8 assistance above the targeted 75% to families that do not exceed extremely low-income levels. The public housing target, however, may not be reduced below 30% of admissions.

### **Income Limits**

Income limits are those published by USHUD for admission of Low-Income and Very-Low-Income families to federally subsidized housing developments.

### **Independent contractor**

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

### **Interim Adjustments or Re-determination of Rents**

Changes in rent between admission and subsequent annual re-examinations due to a change in family composition or income.

### **Live-in Aide**

A person 18 years of age or older who resides with one (1) or more elderly persons, or near-elderly persons, or persons with disabilities who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.
- The live-in aide's income is not counted when determining family income.

### **Low Income Family**

A family whose Annual Income does not exceed eighty percent (80%) of the median family income for the area, as determined by USHUD, with adjustments for smaller and larger families.

### **Minimum Rent**

Statutory requirement that each family assisted under Public Housing programs pay a monthly minimum rent or Total Tenant Payment (TTP) of \$50.00, subject to hardship exemption waiver, if applicable.

### **Monthly Income**

One-twelfth of Annual Income.

**Monthly Adjusted Income**

One-twelfth of Adjusted Annual Income.

**Near-Elderly Family (HUD Equal Access Rule, PIH Notice 2014-20, and 24 CFR §5.403)**

A family whose head of household, co-head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two (2) 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.

**Net Family Assets**

Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in USHUD homeownership programs. The value of any business or family assets disposed of by an applicant or tenant for less than fair market value during the two years preceding the date of application for the program or reexamination shall be included in the determination of Net Family Assets.

**New Affordable Desegregative Rental Housing**

After October 28, 1998, any affordable desegregative rental housing developments developed, purchased or redeveloped by Miami-Dade County solely or as a joint venture with any other entity. This includes the redevelopment of public housing.

**Non-Elderly Family**

Two (2) or more persons who are not elderly but live together and are related by blood, or marriage, or operation of law, or give evidence of a stable relationship which has lasted over a period of at least one year. All Family Income and resources are available to meet the family's needs.

**Non-Violent Criminal Activity**

Any criminal activity that is not a Violent Criminal Activity or a Drug-related Criminal Activity, as defined herewith, but that is such that it may threaten the health, safety or right to peaceful enjoyment of the premises by other residents. Non-violent criminal activities include but are not limited to fraud, bribery, vandalism, burglary, larceny, robbery, etc.

**Offer**

The term 'offer' is used in the context of project-based assistance and means an offer of a unit that is vacant, appropriate for the household in size and type, and meets applicable housing quality standards.

**Person with Disabilities**

Under federal discrimination law, an individual is disabled if they have a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment. This definition does not include any individual who is a drug addict and is currently using illegal drugs, or an alcoholic, who poses a direct threat to the health, safety and right to peaceful enjoyment of the premises by other residents.

**Racial Categories**

There are five racial categories:

- a) American Indian or Alaska Native. A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

## DEFINITIONS

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- b) Asian. A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam
- c) Black or African American. A person having origins in any of the black racial groups of Africa. Terms such as “Haitian” or “Negro” can be used in addition to “Black” or “African American.”
- d) Native Hawaiian or Other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands. White. A person having origins in any of the original peoples of Europe, the Middle East or North Africa.

#### **Reasonable Accommodation**

A reasonable accommodation is a change, modification, alteration, or adaptation in a policy, procedure, practice, program, facility or unit that provides a person with a disability the opportunity to participate in, or benefit from, a program (housing or non-housing), service or activity.

#### **Re-examination Date**

The date on which any rent change is effective as required by the annual re-examination of eligibility for continued occupancy.

#### **Sexual Assault**

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

#### **Sexual Orientation (HUD Equal Access Rule, PIH Notice 2014-20, and 24 CFR §5.100)**

Sexual orientation means homosexuality, heterosexuality or bisexuality.

#### **Single Person**

**See definition of family.**

#### **Special Needs Households**

A household consisting of a Family that is considered to be Homeless, a survivor of Domestic Violence, a Person with Disability, or Youth Aging out of Foster Care. (Rule Chapter 67-48, Florida Administrative Code).

#### **Stalking (24 CFR §5.2003 and Florida Statutes)**

The federal regulations defines “stalking” as following, pursuing, or repeatedly committing acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate; and in the course of, or as a result of, such acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or substantial emotional harm to that person, a member of the immediate family of that person, or the spouse or intimate partner of that person.

In the Florida, the law defines “stalking” as the willful malicious and repeated following, harassing, or cyber stalking of another person, and/or the making of a credible threat with the intent to place that person in reasonable fear of death or bodily injury of the person, or the person's child, sibling, spouse, parent, or dependent.

#### **Technological Abuse**

The term ‘technological abuse’ means 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.

**Tenant Error**

A tenant error occurs when the tenant, by action or inaction, breaches a lease, regulation, or program requirement because of a misunderstanding of rules. Tenant errors are considered unintentional program violations as compared to fraud (see Fraud definition above).

**Tenant Rent**

The amount payable monthly by the Family as rent to the Public Housing Agency. Where all utilities (except telephone) and other essential housing services are supplied by the Agency, Tenant Rent equals the Total Tenant Payment (TTP). Where some or all utilities (except telephone) and other essential housing services are not supplied by the Agency and the cost thereof is not included in the amount paid as rent to the Agency, Tenant Rent equals Total Tenant Payment less the Utility Allowance.

**Total Tenant Payment**

Total Tenant Payment for any dwelling unit shall be the highest of the following, rounded to the nearest dollar:

- 30% of Monthly Adjusted Income;
- 10% of Monthly Income;
- The monthly portion of a Family's Welfare Assistance from a public agency specifically designated by such agency to meet the Family's housing costs; or
- The PHCD statutory minimum rent which is currently \$50, subject to hardship exemption waiver, if applicable.

**Unauthorized Occupants/Boarders**

A person who is staying in the dwelling unit, but is not listed on the lease, Article III, or approved by the Landlord to dwell in the unit in excess to 14 days.

**Uniform Federal Accessibility Standards (UFAS) Unit**

A dwelling unit that is designed, constructed, altered or adapted to comply with Uniform Federal Accessibility Standards (UFAS) and is located in an accessible route.

**Units with Accessible Features**

A unit which has been altered in a manner that has some accessible features that assists persons with disabilities (see also UFAS unit) but is not an UFAS unit.

**Utility Allowance**

If the cost of utilities (except telephone) for an assisted unit is not included in the Tenant Rent but is the responsibility of the family occupying the unit, the Utility Allowance is the amount equal to the estimate made of the monthly costs of a reasonable consumption of such utilities for the unit, consistent with the requirements of a safe, sanitary, and healthful living environment based on an annual review of utility rates. The estimate made must be approved by USHUD. The resident may also request relief from excess utility consumption (see Section 4-1 (B) (iv) regarding the excess consumption policy).

**Utility Reimbursement**

The amount, if applicable, by which the utility allowance for the unit exceeds the Total Tenant Payment for the Family occupying the unit.

**Very Low Income Family**

A family whose annual income does not exceed fifty percent (50%) of the median family income for the area, as determined by USHUD, with adjustments for smaller and larger families.

**Violent Criminal Activity**

Any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonable likely to cause, serious bodily injury or property damage.

**Waiting List**

The list of applicants who are waiting to be verified eligible for admittance to housing programs administered by PHCD and offered the benefit as it becomes available.

DRAFT

***PUBLIC HOUSING and COMMUNITY  
DEVELOPMENT***

**HOTMA PROVISIONS PENDING  
IMPLEMENTATION OF HIP**

**APPENDIX VI**

**OF THE**

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

Effective Date:

## ***APPENDIX VI***

### **Housing Opportunity Through Modernization Act (HOTMA) of 2016**

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937.

1. The Final Rule implementing broad changes to income and asset in Sections 102 and 104 of HOTMA, and for public housing authorities (PHAs) that administer the public housing program over-income provisions in Section 103, was officially published in the Federal Register on February 14, 2023.
  - a) On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule related to income and assets; this was reissued on February 2, 2024, to provide revisions and further guidance.
  - b) On December 17, 2024, HUD issued notice PIH 2024-38, which provided updated guidance to PHAs on compliance with HOTMA for income exclusions, definitions, and de minimis errors no later than July 1, 2025. HUD will not be enforcing compliance with any other provision by January 1, 2025. HUD will issue further guidance on the compliance deadline for all other provisions, when there is more information about when PHAs will be able to submit HOTMA-compliant HUD-50058 forms in HIP.

However, in preparation, this Appendix VI contains required and discretionary policies that will be incorporated into the Admissions and Continued Occupancy Policy (ACOP) Plan upon HUD's release of compliance date.

### **Chapter III. Eligibility for Admission and Assignment Plan**

#### **D. Verification of Assets for Applicants**

1. PHCD will fully verify the net family assets and anticipated income earned from assets at new admission. A minimum of two (2) consecutive bank statements must be provided.
2. Excluded from Net Family Assets

Necessary personal property is excluded from net family assets. Non-necessary personal property with a combined value greater than \$50,000, as adjusted by inflation, is considered part of net family assets. When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

**HOTMA PROVISIONS PENDING IMPLEMENTATION OF HIP  
Appendix VI of the Admissions and Continued Occupancy Policy**

Necessary personal property are items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family’s home. Necessary personal property does not include bank accounts, their financial investments, or luxury items.

Determining what is a necessary item of personal property is a highly fact-specific determination, and therefore PHCD must gather enough facts to qualify whether an asset is necessary or non-necessary personal property. Items of personal property that do not qualify as necessary personal property will be classified as non-necessary personal property.

The following table lists examples of necessary and non-necessary personal property. **This is not an exhaustive list.**

<b>Necessary Personal Property</b>	<b>Non-Necessary Personal Property</b>
<ul style="list-style-type: none"> <li>• Car(s)/vehicle(s) that a family relies on for personal or business use (e.g., bike, motorcycle, skateboard, scooter)</li> <li>• Furniture, carpets, linens, kitchenware</li> <li>• Common appliances</li> <li>• Common electronics (e.g., radio, television, DVD player, gaming system)</li> <li>• Clothing</li> <li>• Personal effects that are not luxury items (e.g., toys, books) significance</li> <li>• Wedding and engagement rings</li> <li>• Jewelry used in religious/cultural celebrations and ceremonies</li> <li>• Religious and cultural items</li> <li>• Medical equipment and supplies</li> <li>• Health care–related supplies</li> <li>• Musical instruments used by the family</li> <li>• Personal computers, phones, tablets, and related equipment Professional tools of trade of the family, for example professional books</li> <li>• Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities</li> <li>• Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)</li> </ul>	<ul style="list-style-type: none"> <li>• Recreational car/vehicle not needed for day-to-transportation (campers, motorhomes, travel trailers, all-terrain vehicles (ATVs))</li> <li>• Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds)</li> <li>• Recreational boat/watercraft</li> <li>• Expensive jewelry without religious or cultural value, or which does not hold family</li> <li>• Collectables (e.g., coins/stamps)</li> <li>• Equipment/machinery that is not used to generate income for a business</li> <li>• Items such as gems/precious metals, antique cars, artwork, etc.</li> </ul>

E. Limitation on Assets (24 CFR § 5.618)

- a) Per requirements in Section 104 of HOTMA, 24 CFR §5.618 admission will be denied to families who own or have interest in the following assets:
  - (1) The family's combined net assets exceed \$100,000, or as determined by HUD and adjusted annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W);
  - (2) The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell, based on State or local laws of the jurisdiction where the property is located, real property that is suitable for occupancy by the family as a residence, except this real property restriction does not apply to:
    - (a) Any property for which the family is receiving assistance under the Housing Choice Voucher or under the Homeownership Option in 24 CFR Part 982;
    - (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, economic abuse, technological abuse, dating violence, sexual assault, or stalking as defined in 24 CFR part 5, Subpart L; 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 the property:
  - a) Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation);
  - b) It is not sufficient for the size of the family based on occupancy standards;
  - c) It is geographically located outside of the state of Florida so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by PHCD);
  - d) It is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
  - e) It is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.
- 4. This real property restriction does not apply to:
  - a) Any property for which the family is receiving assistance under 24 CFR § 982.620 or under the Homeownership Option in 24 CFR Part 982;
  - 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, economic abuse, technological abuse, dating violence, sexual assault, or stalking as defined in 24 CFR part 5, Subpart L; or
  - d) Any family that is offering such property for sale.
5. The policy limitation on assets will not apply to participants in the program.

**Chapter VI. Eligibility for Continued Occupancy and Annual Reexaminations**

**C. Annual Reexaminations**

1. PHCD must estimate the family income for the upcoming 12-month period, subtract the allowable deductions, from the gross annual income to determine the adjusted income. PHCD must:
  - Determine the family income for the previous 12-months and any interim processed [24 CFR §5.609 (c)(2)] except when using a streamlined income determination.
  - Consider any redetermination from an interim reexamination during that period.
  - Adjust reflect current income if there was a change during that period.
  - Subtract the allowable deductions, from the gross annual income to determine the adjusted.

**K. Enterprise Income Verification (EIV), Third Party Verification, and Factors Affecting Eligibility and Family Rent**

PHCD is required to use HUD’s Enterprise Income Verification (EIV) system and the Income Validation Tool (IVT) in its entirety as a third-party source to verify employment and income information for annual reexaminations, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR § 5.233(a)(2)(i)].

EIV is a computer matching program that compares the income provided by the resident against income information supplied by state agencies on wages, unemployment compensation, and Social Security benefits.

Prior to initial certification, applicants shall be informed that PHCD will subsequently verify the family’s income information they have provided PHCD through HUD’s Enterprise Income Verification (EIV) system. PHCD

PHCD will follow the verification hierarchy described in PIH Notice 2023-27.

Level	Verification Technique	Ranking
6	<b>Upfront Income Verification (UIV)</b> , using HUD’s Enterprise Income Verification (EIV) system	Highest (Mandatory) - (not available for applicants)  Must pull the EIV Income Report for each family at every Annual Reexamination.  EIV may be used as the sole verification of Social Security income.  EIV income information may be used to calculate other types of annual income when family agrees.

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Level	Verification Technique	Ranking
		See Level 4 for more information.
5	<b>Upfront Income Verification (UIV)</b> using non-HUD system (e.g., The Work Number, web-based state benefits systems, etc.)	Highest
4	<b>Written, third-party verification</b> from the source, also known as “tenant-provided verification” OR EIV + Self-Certification  PHCD can choose either option when both are available to verify income. PHCD must use written, third-party verification when the income type is not available in EIV (e.g., self-employment, Go Fund Me accounts, general public assistance, Veterans Administration benefits, etc.)	High <ul style="list-style-type: none"> <li>• Written, third-party verification is used when tenant disputes EIV-reported employment and income information.</li> <li>• The EIV Income Report may be used to verify and calculate income if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information from EIV.</li> </ul>
3	<b>Written Third-Party Verification Form</b>	Medium <ul style="list-style-type: none"> <li>• Use if Level 5 or Level 4 verification is not available or is rejected by PHCD and when the applicant or tenant is unable to provide acceptable documentation.</li> <li>• May substitute Level 2 for written, third-party verification form, only completing one of the two forms of verification before moving to self-certification.</li> </ul>
2	<b>Oral Third-Party Verification</b>	Medium
1	<b>Self-Certification (not third-party verification)</b>	Low Use as a last resort when unable to obtain any type of third-party verification or if specifically permitted, such as to determine actual income from assets when the family certifies that net family assets do not exceed \$50,000.

**Level 6:** (Highest Ranking) Upfront Income Verification (UIV) and the Income Validation Tool (IVT) using HUD’s EIV System which is mandatory for residents but not available for applicants;



**Level 5:** Upfront Income Verification (UIV) using non-HUD system such as The Work Number, web-based state benefits systems, etc.);

**Level 4:** Written Third-Party Verification (High) An original or authentic document generated by a third-party source dated within 120 days of the date received by the PHCD. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

Such documentation may be in the possession of the tenant (or applicant) and is commonly referred to as tenant-provided documents. PHCD may obtain any tenant-provided documents and follow up directly with the third-party source to obtain necessary verification of information, when necessary.

Examples of acceptable tenant-provided documentation (generated by a third-party source) include but are not limited to the following: pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

PHCD are required to obtain a minimum of two current and consecutive pay stubs for determining annual income from wages when they do not elect to use EIV + Self-Certification or the income type is not reported in EIV. For new income sources or when two pay stubs are not available, the PHCD should determine income based on the information from a traditional written, third-party verification form or the best available information.

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

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

EIV may be used as Level 4 verification and may be used to calculate income as long as the family agrees with the information in EIV; this practice is known as "EIV + Self-Certification." PHCD may use their discretion to determine which method of calculation is reasonable: the last 4 quarters combined or an average of any number of quarters. The EIV Income report must be pulled within 120 days prior to the reexamination effective date.

**Level 3:** Written Third-Party Verification Form: This practice is also known as "traditional third-party verification." This type of verification is a form developed by the PHCD used uniformly for all families when needed to collect information from a third-party source. The form is completed by the third party by hand (in writing or typeset). PHCD send the form directly to the third-party source by mail, fax, or email.

The PHCD may skip this level of verification before attempting Level 2, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification.

**Level 2:** Oral Third-Party Verification: Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique, or identified by the family, via telephone or in-person visit. PHCD staff must document in the tenant file the date and time of the telephone call (or visit to the third party) and the name of the person contacted and their telephone number, along with the confirmed information.

This verification method is commonly used when the independent source does not respond to the PHCD's faxed, mailed, or e-mailed request for information in a reasonable time frame (e.g., 10 business days).

The PHCD may skip this level of verification if they attempted Level 3, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification.

**Level 1: (Low)** The tenant submits a signed statement of reported income and/or expenses to the PHCD. This verification method should be used as a last resort when PHCD has not been successful in obtaining information via all other required verification techniques. When PHCD relies on self-certification to verify income or expenses, PHCD must document in the tenant file why third-party verification was not available. HUD does not require that a self-certification be notarized.

1. Double Subsidy: If during tenancy, or at any time after admission, the EIV system shows that a family or any household member is receiving assistance from (or is residing in) another housing authority or program, the family or household member must provide proof of termination of tenancy from the other housing agency or program for continuation of assistance. PHCDPHCD may provide up to 30 days for the family or household member to provide proof of termination. If after the 30 days, the participant does not provide proof of termination, the family or household member must be terminated from PHCDPHCD tenancy.

#### 2. EIV: Substantial Different from Tenant Provided Information

If income information in EIV is not available or if it is substantially different from tenant-provided information, then written verification from third parties is the next most desirable form of verification. Currently, a substantial difference requiring third party verification in cases where EIV income data differs from tenant-provided and/or other verified income information is defined as being greater than \$200 per month (\$2,400 per year), unless amended by PHCD. If EIV income data is not substantially different than current tenant-provided income documentation, the following guidelines for projecting annual income will be used:

- If EIV income data is less than current tenant-provided documentation, PHCD will use tenant-provided documents to calculate anticipated income.
- If EIV income data is more than current tenant-provided documentation, PHCD will use EIV income data to calculate anticipated annual income unless the tenant provides PHCD with documentation of a change in circumstances (i.e., change in employment, reduction in hours, etc.). Upon receipt of acceptable tenant-provided documentation of a change in circumstances, PHCD will use tenant-provided documents to calculate anticipated annual income.

In cases where EIV income data is substantially different than tenant-reported income, PHCD will utilize the following guidelines:

- Request written third party verification from the discrepant income source. For EIV Social Security Administration (SSA) benefit discrepancies, PHCD shall require the tenant to obtain a current unaltered SSA benefit letter within ten (10) business days of the interview date.

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- Review historical income data for patterns of employment, paid benefits, or receipt of other income, when PHCD cannot readily anticipate income, such as in cases of seasonal employment, unstable working hours, and suspected fraud.
- Analyze all data (EIV data, third party verification and other documents/information provided by the family) and attempt to resolve the income discrepancy.
- Use the most current verified income data (and historical income data if appropriate) to calculate anticipated annual income.

In verified differences of greater than \$200 per month (\$2,400 per year), PHCD may require the family to enter into a repayment agreement for monies owed or require payment in full. Should the family refuse to enter in a repayment agreement or not fulfill its obligations under its repayment agreement, PHCD shall recommend termination and may refer the case to the HUD Office of the Inspector General.

PHCD, in its sole discretion, may recommend terminating assistance for tenant fraud on a case-by-case basis, e.g., forgery or has demonstrated a pattern of unreported or under-reported income in between or at prior reexaminations. In such cases, PHCD will make the determination whether to recommend terminating assistance and forwarding the case to the HUD Office of Inspector General via PHCD.

In instances where fraud (as defined in Attachment A of this policy), as opposed to tenant error (as defined in Attachment A of this policy), has occurred by the tenant and the difference is verified as being \$10,000, PHCD may recommend terminating housing assistance and shall forward cases to the HUD Office of Inspector General for fraud prosecution, where authorized by PHCD.

Tenant income information derived from the EIV system is confidential and cannot be released to outside parties or unauthorized staff. This information is exempt from the disclosure requirements of the Florida Public Records Act and HUD requires PHCD to keep said information private under penalty of Federal law. Any EIV-derived information is required to be kept guarded under lock and key and must be shredded and destroyed when no longer needed. Copies are not kept in tenant files to avoid risking the release of such information to anyone other than the client and authorized PHCD staff. PHCD shall provide the participant with information obtained through EIV upon the participant's request.

Unauthorized disclosure or inspection of EIV data can result in a felony conviction punishable by a fine up to \$5,000 or five (5) years imprisonment, as well as civil penalties, pursuant to the Privacy Act of 1974 as amended, 5 U.S.C. § 552(a).

**M. Income Validation Tool (IVT)**

The IVT report facilitates and enhances identification of unreported or under-reported income during regular reexaminations. The IVT also provides income and wage, unemployment compensation and SSA benefit information. Additionally, the IVT report provides income information for heads of household and family members where there may be discrepancies in family reported income and employer reported information.

At each regular reexamination of income and family composition and/or as needed, PHCD will:

- Review the EIV Income and IVT reports to confirm/validate tenant-reported income;
- Print and maintain the EIV Income and IVT Reports in the tenant file;
- Obtain current acceptable tenant-provided documentation to supplement EIV information (where applicable); and

- Use current tenant-provided documentation and/or third-party verification to calculate annual income.

Additionally, at each regular reexamination of income and family composition, and/or as needed, using the IVT, PHCD will:

- Identify any reported discrepancies in family reported income and employer reported information;
- Request the tenant to provide any documentation to confirm or dispute the income discrepancy;
- If applicable, determine the tenant rent using the correct and updated income;
- Determine the degree of tenant underreporting or misreporting of income information; and
- Take action in accordance with PHCD policy to resolve the identified discrepancies.

## **Chapter VII. Determining Income and Income-Based Rent**

### **A. Annual Income**

#### 1. Calculating Income

- a) When calculating annual income for a household at the time of a regular reexamination, PHCD will review and calculate the family's income from the preceding 12-month period, taking into consideration any interims or changes that have taken place during that period. If PHCD determines that the family's prior-year income does not reflect the family's current income, it may adjust the calculation of annual income as needed.

For annual reexaminations, PHCD must:

- Determine the family income for the previous 12-months and any interim processed [24 CFR §5.609 (c)(2)] except when using a streamlined income determination.
- Consider any redetermination from an interim reexamination during that period.
- Adjust current income if there was a change during that period.
- Subtract the allowable deductions, from the gross annual income to determine the adjusted.

PHCD may determine the family's income prior to the application of any deductions based on income determinations other means-tested forms of public assistance made within the previous 12-month period such as from Low-Income Housing Tax Credit (LIHTC).

### **D. Streamlined Income Determination**

PHCD may use the streamlined income determination to adjust a family's income according to the percentage of a family's unadjusted income that is from fixed income.

#### 1. Types of Fixed Income

- Social Security, Supplemental Security Income, Supplemental Disability Insurance.
- Federal, state, local, or private pension plans.
- Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts.
- Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

2. **Fixed Income: 90 percent or more of a family's unadjusted income**  
When 90 percent or more of a family's unadjusted income consists of fixed income, PHCD may use streamlined income determination and must apply COLA or COLAS to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year. For non-fixed income, PHCD is not required to make adjustments.
3. **Fixed Income: Less than 90 percent of a family's unadjusted income**  
When less than 90 percent of a family's unadjusted income consists of fixed income, PHCD may use streamlined income determinations must apply a COLA to each of the family's sources of fixed income. PHCD must determine all other income.
4. **COLA Rate**  
If no public verification or tenant-provided documentation is available, then PHCD must obtain third-party verification of the income amounts in order to calculate the change in income for the source.
5. **Triennial verification**  
For any income determined pursuant to a streamlined income determination, PHCD must obtain third-party verification of all income amounts every 3 years.

#### **E. Annual Income Inclusions**

(a) Annual income includes, with respect to the family [24 CFR §5.609(a)]:

- (1) All amounts, not specifically excluded in Section E below, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and
- (2) When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

#### **F. Child Support**

PHCD will verify all amounts received from child support by the family using the verification hierarchy. Only the amounts received of child support payments will be counted as income.

#### **H. Adjusted Annual Income**

Adjusted income is the annual income of family members residing in or intending to reside in the rental unit, less allowable deductions.

- A. A deduction is taken for each qualifying dependent.
  - The amount of the deduction is currently \$480.
  - A dependent is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student.
  - Foster children, foster adults, and live-in aides are never considered dependents.

- B. A deduction for elderly or disable family
- A single deduction is taken for any family where the head of household, co-head or spouse is as least 62 years of age or a person with a disability. Upon implementation of HOTMA and at the first annual or interim reexamination, the amount of the deduction will be increase from \$400 to \$525.

Upon implementation of HOTMA and subject to applicable HUD guidance, these deduction amounts will be adjusted annually by HUD in accordance with Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25.

**b) Child Care Expenses**

Any reasonable child-care expenses necessary to enable a member of the family to be employed or to further their education are deducted from income. Reasonable child-care expenses for the care of children including foster children under 13 years of age, when all the following statements are true:

- The care is necessary to enable a family member to be employed or to further his or her education (e.g., work or further their education (academic or vocational));
- The expense is not reimbursed by an agency, individual outside the household or another source, such as a stipend from the child welfare agency;
- The child-care expenses must be paid from the family's annual income; and
- The expenses incurred to enable a family member to work must not exceed the amount of employment income that is included in annual income for family member claiming expense.

PHCD will seek third-party verification of the work schedule of the person who is permitted to work by child-care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family. PHCD generally will limit the allowable child-care expenses to the earned income of the lowest-paid member.

PHCD will request third-party documentation to verify that the person permitted to further his or her education by childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family. The child-care expense must be reasonable.

**Child Care Hardship Exemption [(24 CFR §5.611(d)).**

1. Requirements

- a) A family whose eligibility for the childcare expense deduction is ending may request financial hardship exemption to continue receiving a child-care expense deduction in certain circumstances when the family no longer has a member that is working or seeking to further their education, and the deduction is necessary because the family is unable to pay their rent.
- b) Upon approval of the family's request for a hardship exemption, PHCD must recalculate the family's adjusted income and continue the child-care deduction if the family demonstrates to PHCD's satisfaction that the family is unable to pay their rent. The hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

2. Hardship Exemption Eligibility:

- a) PHCD will consider the following factors to determine if a family is eligible for a 90-day hardship exemption:

- (1) Provide a written request for a hardship exemption detailing why the childcare expense is still necessary even though the family member is no longer employed or furthering their education. Note that verification may be requested.
- (2) The rent, utility payment, and applicable expenses (childcare expenses or health and medical expenses and reasonable and auxiliary apparatus) is more than 45 percent of the family's annual adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

3. Notification of Hardship Exemption

- a) PHCD will promptly notify families in writing of the change in the determination of adjusted income and the family's rent resulting from the application of the hardship exemption. The written notice must also inform the family of the dates that the hardship exemption will begin and expire and the requirement for the family to report to PHCD if the circumstances that made the family eligible for relief are no longer applicable.
- b) The notice must also state that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption. PHCD must provide families with 30 days' notice of any increase in rent.

4. Notification of Hardship Exemption Denial

PHCD will promptly notify families in writing if they are denied the hardship exemption; The notification must specifically state the reason for the denial.

5. One Additional 90-Day Hardship

One additional 90-day hardship exemption may be provided for families that demonstrate a hardship for a separate circumstance, unrelated to the first approved hardship request.

**c) Health and Medical Care and Reasonable Attendant Care and Auxiliary Apparatus Expense**

1. A deduction of unreimbursed amounts paid for attendant care or auxiliary apparatus expenses for family members with disabilities where such expenses are necessary to permit a family member(s), including the disabled member, to be employed. In no event may the amount of deduction exceed the employment income earned by the family member(s) able to work.
2. Equipment and auxiliary apparatus may include but are not limited to:
  - Wheelchairs
  - Lifts
  - Reading devices for the visually impaired

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- Equipment added to cars and vans to permit their use by the disabled family member.
  - Included would be the annualized cost differential between a car and the cost of a van required by the family member with disabilities.
  - For non-elderly families and elderly or disabled families without medical expenses: the amount of the deduction equals the cost of all unreimbursed expenses for work-related disability expense less the HUD established percentage (see above) of annual income, provided the amount so calculated does not exceed the employment income earned.
  - For elderly or disabled families with medical expenses: the amount of the deduction equals the cost of all unreimbursed expenses for work-related disability expense less the HUD established percentage (see above) of annual income (provided the amount so calculated does not exceed the employment income earned) plus medical expenses as defined below.
3. Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any reasonable attendant care and auxiliary apparatus expenses, they exceed the HUD-established percentage of annual income threshold.
4. The threshold has been raised from three (3) percent to ten (10) percent of annual income. Families may be eligible for a 24-month phase-in relief period or a general relief 90-day period but not both.
- a) 24-Month Phased-in Relief
- (1) Residents whose income calculation was adjusted due to the family's claim of unreimbursed health and medical care and reasonable attendant care and auxiliary apparatus expense exceeding 3% of the family's annual income, prior to the HOTMA implementation, will have an increase in the threshold of this deduction phased-in in the following manner:
- (a) Following the first income reexamination after the implementation of HOTMA, such families will receive deductions for claims of unreimbursed expenses (described herein) up to 5% percent of the annual income for 12 months.
  - (b) Following the 12-month period at 5% deductions, the family will receive deductions for claims of unreimbursed expenses (described herein) in excess of 7.5% for the following 12 months.
  - (c) At the conclusion of the 24-month phase in period, the family will be eligible for this deduction only if their unreimbursed medical and healthcare expenses exceed 10% of the annual income.
- (2) An elderly or disabled family or a family that includes a person with disabilities may request general or financial hardship relief (see below) prior to the end of the 24-month transition period if the family can demonstrate that the family's applicable health and medical care expenses or reasonable attendant care and auxiliary apparatus expenses increased or there has been a change in circumstances resulting in a financial hardship.



- (3) The 24-month phased-in relief period must be continued to be received by families upon portability or conversions under RAD.

b) General Relief

- (1) To qualify, a family must demonstrate that the family's unreimbursed health and medical care expenses or unreimbursed reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination.
- (2) Relief is available regardless of whether the family previously received an unreimbursed health and medical care expense deduction, unreimbursed reasonable attendant care and auxiliary apparatus expense deduction, are currently receiving phased-in hardship relief.
- (3) If a PHCD determines that a family is eligible for general relief, the family will receive a deduction for the sum of the eligible expenses that exceed 5 percent of annual income. The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier.

c) Financial Hardship

- (1) A financial hardship provides one 90-day period to receive a deduction for the sum of the eligible expenses that exceed 5 percent of annual income to qualifying families.
- (2) The family must demonstrate that the rent, utility payment, and applicable expenses (childcare expenses or health and medical care and reasonable attendant care and auxiliary apparatus expenses) is more than 45 percent of the family's adjusted annual income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent. However, this financial hardship would not otherwise trigger an interim reexamination.
- (3) This relief is available regardless of whether the family previously received health and medical deductions or is currently receiving, or previously received, a hardship exemption under the first category. PHCD will consider the following factors to determine if a family is eligible for a 90-day hardship exemption:
  - (4) Provide a written request for a hardship exemption detailing why the health and medical expenses and reasonable attendant care and auxiliary apparatus expense is still necessary. Note that verification may be requested.

d) Notification of Hardship Exemption

- (1) PHCD will promptly notify families in writing of the change in the determination of adjusted income and the family's rent resulting from the application of the hardship exemption. The written notice must also inform the family of the

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dates that the hardship exemption will begin and expire and the requirement for the family to report to PHCD if the circumstances that made the family eligible for relief are no longer applicable.

- (2) The notice must also state that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption. PHCD must provide families with 30 days' notice of any increase in rent.

e) Notification of Hardship Exemption Denial

PHCD will promptly notify families in writing if they are denied the hardship exemption; The notification must specifically state the reason for the denial.

f) One Additional 90-Day Hardship

A second 90-day hardship exemption may be provided for families that demonstrate a hardship for a separate circumstance, unrelated to the first approved hardship request.

<b>Phase-In Relief</b>	<b>Initial 12 Months</b>	<b>Initial 24 months</b>	<b>End of 24 months</b>
<p><b>To qualify</b> family must already be receiving a medical expense deduction of 3% of Gross Income</p> <ul style="list-style-type: none"> <li>• May request General Relief if does not qualify for phased-in Relief</li> <li>• May request financial hardship prior to the end of the 24 months</li> </ul>	5% Of Gross Income	7.5% Of Gross Income	10% Of Gross Income
<b>General Relief</b>	<b>90-Day period</b>		
	5% of Gross income for one 90-day period		
<b>Financial Hardship</b>	<b>90-Day Period</b>	<b>2<sup>nd</sup> 90-Day Period</b>	
<b>To qualify</b> families must demonstrate a financial hardship.	5% of Gross income ends when there is no need for hardship or the 90-day period end.	Families may request an additional 90-day period if they can demonstrate a financial hardship for a different set of circumstances, subject to PHCD's approval.	

**J. Verification of Assets**

PHCD will fully verify the net family assets and anticipated income earned from assets at new admission. During an annual or interim reexamination, PHCD may rely solely on a family self-certification that their net family assets are equal to or less than \$50,000 subject to the following two conditions:

- a) a full verification of family assets (i.e., two bank statements) were provided during the last annual or interim verification; and

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- b) the family has met all other requirements to complete reexamination except submittal of the required asset verifications (two bank statements).

3. Excluded from Net Family Assets

Necessary personal property is excluded from net family assets. Non-necessary personal property with a combined value greater than \$50,000, as adjusted by inflation, is considered part of net family assets. When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

Necessary personal property are items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property does not include bank accounts, their financial investments, or luxury items.

Determining what is a necessary item of personal property is a highly fact-specific determination, and therefore PHCD must gather enough facts to qualify whether an asset is necessary or non-necessary personal property. Items of personal property that do not qualify as necessary personal property will be classified as non-necessary personal property.

The following table lists examples of necessary and non-necessary personal property. This is not an exhaustive list.

<b>Necessary Personal Property</b>	<b>Non-Necessary Personal Property</b>
<ul style="list-style-type: none"> <li>• Car(s)/vehicle(s) that a family relies on for personal or business use (e.g., bike, motorcycle, skateboard, scooter)</li> <li>• Furniture, carpets, linens, kitchenware</li> <li>• Common appliances</li> <li>• Common electronics (e.g., radio, television, DVD player, gaming system)</li> <li>• Clothing</li> <li>• Personal effects that are not luxury items (e.g., toys, books) significance</li> <li>• Wedding and engagement rings</li> <li>• Jewelry used in religious/cultural celebrations and ceremonies</li> <li>• Religious and cultural items</li> <li>• Medical equipment and supplies</li> <li>• Health care-related supplies</li> <li>• Musical instruments used by the family</li> <li>• Personal computers, phones, tablets, and related equipment Professional</li> </ul>	<ul style="list-style-type: none"> <li>• Recreational car/vehicle not needed for day-to-transportation (campers, motorhomes, travel trailers, all-terrain vehicles (ATVs))</li> <li>• Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds)</li> <li>• Recreational boat/watercraft</li> <li>• Expensive jewelry without religious or cultural value, or which does not hold family</li> <li>• Collectables (e.g., coins/stamps)</li> <li>• Equipment/machinery that is not used to generate income for a business</li> <li>• Items such as gems/precious metals, antique cars, artwork, etc.</li> </ul>

<b>Necessary Personal Property</b>	<b>Non-Necessary Personal Property</b>
tools of trade of the family, for example professional books <ul style="list-style-type: none"> <li>• Educational materials and equipment</li> <li>• used by the family, including equipment to accommodate persons with disabilities</li> <li>• Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)</li> </ul>	

4. The policy regarding limitation on assets will not apply to participants in the program.

## **Chapter VIII. Interim Rent Adjustments: Fixed Rent System**

### **A. Interim Reexamination**

Rent may be re-determined between annual reexaminations when a resident undergoes a change in family composition or income. The resident must report changes in writing to the management office within ten (10) calendar days of the event.

1. Any approved addition to the family composition will be processed as an interim recertification. PHCD will only update the family composition information unless the family meets one of the conditions described under “Interim Rent Increases” or “Interim Rent Decreases” described below.
  - No increases in annual income will result in an interim reexamination unless the family reported zero income or a decrease in income within the same annual or biennial reexamination cycle (Refer to “Interim Rent Increases”).
  - EIV is no longer required to verify tenant’s employment and income information during an interim recertification.
  - The total family income increases or decreases must last longer than one-month (30 days); the tenant must report such a change in writing to the management office within ten (10) days of occurrence.
  - PHCD will not conduct an interim reexamination for an increase in income within the last three months of the family’s next annual reexamination period.
  - PHCD will conduct requests for interim adjustments when a family member is permanently moving out of the unit.
  - PHCD has established a ten (10) percent threshold to determine when to complete an interim reexamination. As a result, PHCD will round **up** 9.5 and above to 10%, the standard threshold set by HUD.

- If the monthly rental payment decreases by ten (10) percent or more as a result of the rent adjustment, the adjusted rent will become effective the first day of the month following the date the information is reported to PHCD. If the rent should increase by ten (10) percent or more based on the family income, the adjustment will become effective the first day of the second month following the month in which the change is reported or 30 days, whichever is greater, after proper verification is completed.
- If it is found that the family failed to timely report any changes in income or family composition within ten (10) days or provided inaccurate or incomplete information, it may be considered fraud, any of the following may occur:
  - Any increase in rent which would have occurred had changes been reported in a timely manner will be made retroactive to the effective date of the change in circumstances and the family agrees to reimburse PHCD for the difference between the rent they should have paid and the rent they were charged.
  - Any decrease in rent that would have occurred had changes been reported in a timely manner will be made effective the first day of the month following the date the change is reported to PHCD and will not apply retroactively.

## **2. Interim Rent Increases**

Families are required to report to PHCD all increases in adjusted unearned income that occurred between regularly scheduled annual re-examinations. Any increase of the family's unearned income by ten (10) percent or more must be processed.

Families are required to report to PHCD all increases in earned income. PHCD must conduct a full interim reexamination due to an increase in earned income if the family had an interim reexamination to decrease rent during the annual reexamination period. Any increase of the family's earned income by ten (10) percent or more must be processed.

## **3. Interim Rent Decreases**

- a) PHCD must conduct a full interim reexamination if the family's adjusted unearned income is estimated to have decreased by ten (10) percent or more.
- b) PHCD must conduct a full interim reexamination for all decreases in adjusted income upon the permanently removal of a family member from the assisted unit

## **4. Non-Interim Reexaminations**

In accordance with HOTMA, HUD now defines the following types of changes to a household's family composition or rent calculations as "Non-Interim Reexamination" - except if there is a change of income that exceeds the thresholds as provided above.

The following transaction types require the processing and submission of a Non-Interim Reexamination, regardless if the reexamination results in a recalculation of the rent the family is to be charged:

- a) Adding, updating, or removing a hardship exemption for the childcare expense deduction or the health and medical care expense deduction.
- b) Updating or removing the phased-in hardship relief for health and medical care expense deduction.

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- c) Adding or removing a minimum rent hardship exemption.
- d) Adding or removing a non-family member (live-in aide, foster child, foster adult).
- e) Changes or adjustments related to families still benefiting from the Earned Income Disregard (EID).
- f) Adding family members and the increase/decrease in adjusted income does not trigger an interim.
- g) Removing family members and the increase/decrease in adjusted income does not trigger an interim.
- h) Adding/Updating social security numbers.
- i) Updating a family member's citizenship/immigration status.

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