

DENVER HOUSING AUTHORITY

Admission and Continued Occupancy Policy

ACOP

Housing Management Dept.

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The Admissions and Continued Occupancy Policies (“ACOP”) is DHA’s written statement of policies used to carry out the housing program in accordance with federal law and regulations, HUD requirements, and state and local laws.

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Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

PART I: DHA

Public housing is funded by the federal government and administered by the Housing Authority of the City and County of Denver, also known as Denver Housing Authority (“DHA”) for the jurisdiction of the City and County of Denver.

DHA MISSION

DHA’s mission is to serve the residents of Denver by developing, owning, and operating safe, decent and affordable housing in a manner that promotes thriving communities.

DHA resolves to:

- Administer applicable federal, state, and local laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing in good repair – in compliance with program uniform physical condition standards – for very low- and low-income families.
- Achieve a healthy mix of incomes in its public housing developments by attracting and retaining higher income families and by working toward deconcentration of poverty goals.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low- and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, disabilities, and all other protected classes to participate in the public housing program and its services.
- Create positive public awareness and expand the level of family and community support in accomplishing DHA’s mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of DHA’s support systems and commitment to our employees and their development.

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

PART II: THE PUBLIC HOUSING PROGRAM

Applicable regulations include but are not limited to:

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

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

The Admissions and Continued Occupancy Policies (“ACOP”) is DHA’s written statement of policies used to carry out the housing program in accordance with federal law and regulations, HUD requirements, and state and local laws. The ACOP also contains policies that support the objectives contained in DHA’s Agency Plan.

All issues related to public housing not addressed in this ACOP are governed by the federal regulations, the Department of Housing And Urban Development (“HUD”) handbooks and guidebooks, HUD notices, and applicable state and local laws.

DHA will review and update the ACOP as needed to reflect changes in regulations, DHA operations, or when needed to ensure staff consistency in operation. If DHA and ACOP conflict with the regulations listed above then, HUD regulations will have precedence.

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

PART I: NONDISCRIMINATION

It is the policy of DHA to treat all applicants and resident families equally, providing the same quality of service, regardless of family characteristics and background. DHA will not discriminate in housing on the basis of race, color, national origin, religion, sex, age, familial status, disability, sexual orientation, LGBT Status, gender identity, marital status, military status, political affiliation, or other protected class (“Protected Classes”).

No person shall, on the grounds of their Protected Class be denied the benefits of, or be otherwise subjected to discrimination under DHA’s programs.

It is the policy of DHA to fully comply with all Federal, State and local nondiscrimination laws and with rules and regulations governing fair housing and equal opportunity in housing and employment, including but not limited to:

- Title VI of the Civil Rights Act of 1964.
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988).
- Section 504 of the Rehabilitation Act of 1973.
- The Age Discrimination Act of 1975.
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern).
- Executive Order 11063.
- The Violence against Women Act of 2005 (VAWA).
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012.
- The Colorado Anti-Discrimination Act.
- The Denver County Anti-Discrimination Ordinance.
- And all applicable state laws or local ordinances and any legislation protecting individual rights of residents, applicants, or staff that may subsequently be enacted.

Discrimination Complaints

DHA will provide the family with information on how to complete a discrimination complaint form and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO) and/or the Colorado Civil Rights Division (CCRD).

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-IIA. REASONABLE ACCOMMODATION

It is DHA's policy to provide a "reasonable accommodation" in housing for applicants, residents, and clients with disabilities where a reasonable accommodation is necessary to provide them with an equal opportunity to participate in, or benefit from, DHA housing programs. When such accommodations are granted, they do not confer special treatment or advantage for the person with a disability; rather, they make the program accessible to them in a way that would otherwise not be possible due to their disability.

A reasonable accommodation is a modification or change DHA can make to its procedures, rules or to an individual's apartment or to a public/common area which would provide an otherwise eligible individual with a disability an equal opportunity to participate in, or benefit from, DHA housing programs, provided that the change does not pose an undue financial and administrative burden to DHA or result in a fundamental alteration of its programs. A reasonable accommodation may also include the provision of appropriate auxiliary aids where necessary to facilitate communication with an individual with a disability.

The requested change to DHA's rules, policies, practices, services or modifications must be reasonable and there must be an identifiable relationship (nexus) between the requested accommodation and the disability and must not result in an undue hardship. An undue hardship is a significant or undue financial and/or administrative burden. DHA is not required to provide an accommodation that will require a fundamental alteration in the nature of DHA's housing programs. A reasonable accommodation is not meant to provide a personal preference. If the request is not required because of a disability, then it is not an accommodation. If more than one accommodation is equally effective in providing access to DHA's programs and services, DHA retains the right to select the most efficient or economic choice.

2-II.B. REQUEST FOR AN ACCOMMODATION

DHA's Reasonable Accommodation in Housing Guidelines ("RAHG") and Alternative Forms of Communication Guidelines are available upon request from DHA Staff and are available on DHA's Website. Individuals may request a reasonable accommodation by following the procedures outlined in DHA's RAHG. These guidelines clarify how people can request accommodations, and the guidelines DHA will follow in determining whether it is reasonable to provide a requested accommodation. In most cases, DHA will not consider any individual disabled for the purpose of providing an accommodation without confirmation by a health care provider that the individual meets the definition of disabled in the RAHG. A Request for Accommodation form must be requested and completed. If an individual is unable to complete the Request for Accommodation form, a DHA representative will assist them in completing the necessary forms.

An applicant, resident, or client may submit their accommodation request to DHA Staff or directly to DHA's 504 Coordinator.

It is the responsibility of an individual with a disability to request an accommodation. DHA requires all requests for accommodation to be documented in order to help avoid misunderstandings regarding what is being requested or whether the request was made.

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

If an individual is unable to provide a request in writing, or requires assistance in completing a request for accommodation, they should contact DHA and a staff member will assist the individual by completing the appropriate forms; however, the individual, or their legal representative, must sign the forms. If an individual is unwilling to provide a request in writing, or to sign a request, DHA will document the request and review it based solely on the information provided.

Upon request DHA staff will provide an individual DHA's Request for Accommodation Packet. DHA does not require that an individual use the Request for Accommodation Packet. However, in most cases, failure to use DHA's forms will delay the accommodation request as additional information is often necessary from the individual or the individual's health care provider to verify the disability, or the relationship (nexus) between the disability and the accommodation requested.

If an individual's disability is obvious or otherwise known to a representative of DHA, and if the need for the requested accommodation is readily apparent, DHA may, in its sole discretion, not require such documentation. An individual may discuss the use of DHA's Report of Verbal Request for Accommodation/Obvious Disability and Observed Need form with DHA Staff.

In most cases, DHA requires that an individual's health care provider provide information regarding why the requested accommodation is necessary for the qualified individual with a disability to have an equal opportunity to participate in, or benefit from DHA housing, programs, services or activities. DHA will not simply grant an accommodation because the individual is disabled.

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

If for any reason, additional information is required in order to make a determination regarding the request, DHA may send the individual and/or the individual's health care provider a letter stating what additional information is required. If necessary, and appropriate, DHA may request authorization to contact the individual's Health Care Provider in order to verify or obtain additional information.

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

DHA has designated a 504 Coordinator responsible for making determinations on requests for accommodations in compliance with DHA's Reasonable Accommodation in Housing Guidelines ("RAHG"). The 504 Coordinator can be contacted at 777 Grant Street, 6th Floor, Denver, Colorado 80203, (720) 932-3091, Fax (720) 932-3009.

2-II.C. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS [24 CFR 8.6]

Upon request, DHA will provide alternative forms of communication for individuals who are visually, hearing, mentally or manually impaired to ensure the individual is able to effectively communicate with DHA, in compliance with DHA's Guidelines for the Provision of Alternative Forms of Communication for Individuals with Disabilities. DHA will furnish appropriate auxiliary aids (e.g., qualified sign language and oral interpreters, readers) where necessary to facilitate communication with an individual with a disability.

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

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

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

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

2-III. SERVICES FOR NON-ENGLISH SPEAKING APPLICANTS AND PARTICIPANTS

DHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (“LEP”). LEP persons are defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this Admissions and Continued Occupancy Policy, LEP persons are public housing applicants and resident families, and parents and family members of applicants and resident families.

DHA has developed the Housing Authority of the City and County of Denver Limited English Proficiency Plan (“LEP Plan”), in accordance with federal guidelines, to ensure that all programs, services, and benefits are accessible to eligible individuals who, as a result of national origin, are limited in their English proficiency. This procedure outlines: 1) the process for determining the language needs of the population served; 2) the process for determining what documents are vital and will be translated; 3) provision of interpretation services for non-translated documents; 4) procedures for securing a certified interpreter; 5) how Limited English Proficiency (“LEP”) Persons can access interpreter services; and 6) DHA’s right to certify that an individual is limited English proficient, prior to providing specific interpretation or translation services.

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

Chapter 3 ELIGIBILITY

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. FAMILY AND HOUSEHOLD [24 CFR 5.403 and FR Notice 02/03/12]

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

Family

To be eligible for admission, an applicant must qualify as a family.

Family includes, regardless of actual or perceived sexual orientation, gender identity, or marital status, but is not limited to the following: a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together.

Such group includes, but is not limited to, (a) a family with or without children (a child who is temporarily away, 180 days or less, from the home because of placement in foster care is considered a member of the family in determining family composition and family size; furthermore, proof of guardianship must be provided), (b) An elderly family; (c) A near elderly family; (d) A disabled family; (e) A displaced family; (f) The remaining member of a resident family who meets all other eligibility criteria; (g) A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a resident family; or (h) Two or more individuals regardless of gender, or sexual orientation sharing residency, who are over eighteen (18) years of age and whose income and resources are available to meet the family's needs and who are either related by blood, marriage, operation of law, or who evidenced a stable family relationship over a period of six (6) months.

Prior to admission DHA may require proof of a stable family relationship for a six month period prior to the date of the submitted application for housing.

Evidence of "stable family relationship" may include any of the following: birth certificates of the children, joint tax return, prior lease (held jointly), joint bank accounts, insurance policies, prior joint credit history, or equivalent documentation as determined by DHA.

DHA has the discretion to determine if any other group of persons qualifies as a family.

Household

Household is a broader term that includes additional people who, with DHA's permission, live in a public housing unit, such as Live-in Aides, foster children, and foster adults. All Household members are listed on the lease.

3-I.B. FAMILY BREAKUP AND REMAINING MEMBER OF RESIDENT FAMILY

Family Breakup

If a family breaks up into two otherwise eligible families while on the wait list or living in public housing, only one of the new families will retain the original application date or occupancy of the unit. Note: DHA does not make "split family" transfers.

Other former family members may submit a new application with a new application date if the waiting list is open.

If a court determines the disposition of property between members of an applicant or resident family as part of a divorce or separation decree, DHA will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, DHA will determine which family will retain their placement on the waiting list or continue in occupancy. DHA strongly encourages family members to determine who will retain the waiting list application or continue in occupancy. In making its determination, DHA will take into consideration the following factors: (1) interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, or stalking; (4) any possible risks to family members as a result of criminal activity, (5) the

recommendations of social service professionals; and (6) for applicants, the original Head of Household on the application.

Remaining Member of a Resident Family [24 CFR 5.403] [PH Occ GB, p. 26]

The HUD definition of family includes the *remaining member of a resident family*, which is an approved member of a resident family who remains in the unit when other members of the family have left the unit. Household members such as Live-in Aides, foster children, and foster adults do not qualify as remaining members of a family.

To qualify as a remaining family member an individual must be eighteen (18) years of age or older, meet all other eligibility criteria including a criminal background check, and be a member of a DHA resident family, but not a signatory to the lease and who continues to live in the unit after all other family members have left.

If, for any reason, the signator(s) of the lease cease(s) to be a member of the resident family, the lease shall be rendered null and void. DHA will review the Remaining Family Member's eligibility for tenancy and has the right to refuse to enter into a lease with the Remaining Family Member who does not meet the applicable eligibility criteria. Remaining Family Members may be required to move to a smaller unit if their current unit is too big once the other family members have vacated.

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

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

The family may designate any qualified family member as the head of household. The head of household must have the legal capacity to enter into a lease under state and local law.

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

A family may have a spouse or cohead, but not both.

Spouse means the domestic partner of the head of household. The term "spouse" does not apply to friends, roommates, or significant others who are not domestic partners.

Domestic partner includes the partner in a "common law" marriage as defined in state law and is specifically meant to include same sex partnerships.

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

Other adult means a family member, other than the head, spouse, or cohead, who is 18 years of age or older. Foster adults and Live-in Aides are not considered other adults.

3-I.E. DEPENDENT [24 CFR 5.603]

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

Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 51 percent or more of the time. When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, DHA will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, TANF or Kinship Care verification, school records, or other credible documentation.

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

A *full-time student* is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to determine if attendance is full-time is defined by the educational institution. To be considered a full time student the student must not have established permanent residency outside of the home.

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

For families applying to or housed in a Mixed Finance community, there may be restrictions regarding full-time students.

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

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

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

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

3-I.H. DISABLED FAMILY [24 CFR 5.403, FR Notice 02/03/12]

Disabled Family

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

3-I.I. GUESTS [24 CFR 5.100] [24 CFR 966.4(d)] [24 CFR 966.4(f)]

A *guest* is defined as a person in the resident's home ("the Premises"), or on DHA property with the consent of the resident or a household member.

The resident has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease. The head of household is responsible for the conduct of visitors and guests, inside the Premises as well as anywhere on or near DHA property.

A resident must notify DHA when overnight guests will be staying in the unit for more than 2 nights. A resident may not have guests longer than a total of 30 cumulative calendar days during any 12 month period.

A family may request an exception to this policy for valid reasons as determined by DHA.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the public housing unit more than 51 percent of the time, are not subject to the time limitations of guests as described above.

Former residents who have been evicted are not permitted as overnight guests without prior written approval from DHA. Barred persons and registered sex offenders will not be permitted as guests.

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

3-I.J. FOSTER CHILDREN AND FOSTER ADULTS [24 CFR 5.609(c)(2)] [24 CFR 5.603]

Foster adults are usually persons with disabilities, unrelated to the resident family, who are unable to live alone.

A *foster child* is a child that is in the legal guardianship or custody of a state, county, or private adoption 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.

Foster children and foster adults that are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction.

3-I.K. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

Generally an individual who is or is expected to be absent from the public housing unit for 30 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the public housing unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

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

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

Children temporarily absent (30 days or less) from the home as a result of placement in foster care are considered members of the family. The family must report to DHA within 10 days the placement of a child in foster care.

If a child has been placed in foster care, the resident must provide verification from the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member. The resident has an obligation to provide this verification of temporary or permanent placement no later than 180 consecutive days after the child(ren) has/have been removed or the resident's next annual recertification whichever occurs later. Failure to provide such verification may result in DHA determining the child(ren) has/have been permanently removed.

Absent Head, Spouse, or Cohead

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

Individuals Confined for Medical Reasons

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

If there is a question about the status of an absent family member, DHA will request that the resident provide verification from a responsible medical professional regarding the absent family member's status and will use this verification in making a determination regarding that status.

3-I.L. LIVE-IN AIDE

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

A Live-in Aide must meet all three (3) criteria at all times to qualify as a Live-in Aide, even if he/she is a relative. In order to meet the criteria for a Live-in Aide for whom a separate bedroom is allocated the Live-in Aide must not maintain a separate residence.

DHA must approve a Live-in Aide if needed as a reasonable accommodation for a person with disabilities in accordance with 24 CFR 8.

A Live-in Aide is considered a household member but not a family member. The income of the Live-in Aide is not counted in determining the annual income of the family [24 CFR 5.609(c)(5)]. Relatives may be approved as a Live-in Aide if they meet all three (3) criteria. However, a relative who serves as a Live-in Aide is not considered a family member and would not be considered a remaining member of a resident family.

DHA has the discretion not to approve a particular person as a Live-in Aide, and may withdraw such approval, if:

- (1) the person designated as a Live-in Aide no longer meets all of the three (3) criteria listed above;
- (2) the person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- (3) the person has a history of drug-related criminal activity or violent criminal activity;
- (4) the person currently owes rent or other amounts to DHA or any other PHA or owner in connection with any assisted housing program;
- (5) the person requesting to be a Live-in Aide fails to meet all of DHA's eligibility requirements other than income limitations or age restrictions;
- (6) the family does not maintain separate finances from the Live-in Aide;
- (7) the family and the Live-in Aide cannot adequately demonstrate that the provision of care is at an "arm's length transaction";
- (8) it is determined that the person is an occasional, intermittent, or rotating care giver not actually residing in the residence; or
- (9) The Live-in Aide is violating the lease in any manner.

Once the Live-in Aide has been approved, if DHA has reason to believe that circumstances have changed DHA may require the family to submit a new written request, or provide additional information subject to DHA verification.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

For families applying to or residing in a Mixed Finance community, more restrictive income limits may apply.

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

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

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

Extremely low-income family. A family whose annual income does not exceed 30 percent of the median income for the area, adjusted for family size. (Used for income targeting only, not program eligibility.)

Using Income Limits for Eligibility [24 CFR 960.201]

Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income eligible, the annual income of an applicant must be within the *low-income* limit.

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

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

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

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

Declaration [24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status.

U.S. Citizens and Nationals

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

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with DHA efforts to verify their immigration status.

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status.

Mixed Families

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

Ineligible Families

DHA will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen. [24 CFR 5.512(a)-(b)].

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2012-10]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN.

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

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

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230]

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

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

PART III: DENIAL OF ADMISSION

3-III.A. REQUIRED DENIAL OF ADMISSION [24 CFR 960.204] [24 CFR 960.203(c)(3)(ii)]

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

DHA will deny assistance in the following cases:

- If any member of the household has been evicted from federally-assisted housing in the last three (3) years for drug-related criminal activity.

- DHA may admit an otherwise-eligible family who was evicted from federally-assisted housing within the past three (3) years for drug-related criminal activity, if DHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by DHA, or the person who committed the crime is no longer living in the household.
- If DHA determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].
- If DHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
 - In determining reasonable cause, DHA will consider all credible evidence, including but not limited to, any record of convictions or evictions of household members related to the use of illegal drugs or the abuse of alcohol. DHA will also consider evidence from treatment providers or community-based organizations providing services to household members.
- DHA will deny assistance if any household member has ever been convicted for the production, manufacture, or use of methamphetamine, regardless if it took place on or off the premises of federally assisted housing.
- DHA will deny assistance if any household member has ever been evicted for the production, manufacture, or use of methamphetamine regardless of whether it took place on or off the premises of federally assisted housing.
- DHA will deny if any household member is subject to any registration requirement under a state sex offender registration program.

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

Criminal Activity [24 CFR 960.203(c)]

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

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

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

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

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

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

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

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests (with additional documentation), or evictions for suspected drug-related or violent criminal activity of household members within the past 7 years. A conviction for such activity will be given more weight than an arrest or an eviction.

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

In the event of the receipt of unfavorable information with respect to an applicant, DHA must consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). DHA may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, or stalking.

DHA may deny admission to an applicant family if DHA determines that the family:

- Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past three (3) years.
 - DHA will consider the existence of mitigating factors, such as loss of employment or other financial difficulties.
- Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past three (3) years which may adversely affect the health, safety, or welfare of other residents.
- Has a pattern of eviction from housing or termination from residential programs within the past three (3) years (considering relevant circumstances).
- Owes rent or other amounts to DHA or any other PHA or owner in connection with any assisted housing program.
- Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent.
- Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- Has engaged in or threatened violent or abusive behavior toward DHA personnel.

- *Abusive or violent behavior towards DHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
- *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

3-III.D. SCREENING

Screening for Eligibility

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

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

DHA will obtain a criminal background check for every adult household member. DHA may also obtain a national criminal history check for any adult household member that has resided in another county or state. DHA may also obtain a credit check for adult household members.

DHA is required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 960.204(a)(4)]. DHA will use the State and/or National Sex Offender database to screen applicants for admission.

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

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

DHA is responsible for the screening and selection of families to occupy public housing units. DHA may consider all relevant information. Screening is important to public housing communities and program integrity, and to ensure that assisted housing is provided to those families that will adhere to lease obligations. DHA may consider the family's history with prior landlords.

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

Evidence

DHA will use the preponderance of the evidence as the standard for making all admission decisions. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

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

DHA is authorized to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated.

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

Removal of a Family Member's Name from the Application

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the public housing unit and may be placed on DHA's barred list. [Notice PIH 2012-28]. [24 CFR 960.203(c)(3)(i)].

Upon DHA request, after admission to the program, the family must present evidence of the former family member's current address.

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

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

3-III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING

The Violence against Women Act (VAWA) and the HUD regulations prohibit PHAs from denying admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking.

DHA acknowledges that a victim of domestic violence, dating violence, 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 DHA's policies.

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, or stalking, DHA will request in writing that the applicant provide documentation supporting the claim [24 CFR 5.2007]

3-III.G. NOTICE OF ELIGIBILITY OR DENIAL

DHA will notify an applicant family of its final determination of eligibility.

If an applicant family appears to be ineligible, DHA will notify the family in writing of the proposed denial and upon request provide a copy of the record to the applicant and to the subject of the record. The family will be given the opportunity to dispute the accuracy and relevance of the information.

Chapter 4

APPLICATIONS, WAITLIST AND TENANT SELECTION

PART I: THE APPLICATION PROCESS [24 CFR 960.103, PH Occ GB p. 13]

4-I.A. APPLYING FOR ASSISTANCE

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

Under the two-step application process, DHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waitlist. The family will be required to provide all of the information necessary to establish family eligibility and the amount of rent the family will pay when selected from the waitlist.

When DHA is accepting interest cards, Families may obtain interest cards/pre-applications online at DHA's website. Interest cards/pre-applications must be filled out completely in order to be accepted by DHA for processing.

4-I.B. PLACEMENT ON THE PRE-APPLICATION WAITLIST

DHA will review each completed interest card/pre-application received and make a preliminary assessment of the family's eligibility. Applicants for whom the waitlist is open must be placed on the interest card waitlist unless the interest card is not submitted timely or completed properly or DHA determines the family to be ineligible.

No applicant has a right or entitlement to be listed on the interest card waitlist, or to any particular position on the interest card waitlist simply by the submission of an interest card.

Eligible for Placement on the Pre Application Waitlist

Applicants will be placed on the interest card/pre-application waitlist according to DHA preference(s) and the date and time their complete interest card/pre-application is received by DHA.

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

PART II: MANAGING THE WAITLIST

4-II.A. ORGANIZATION OF THE WAITLIST

DHA's public housing waitlist will be organized in such a manner to allow DHA to accurately identify and select families in the proper order.

DHA will maintain a community-wide interest card and approved waitlist for most of its developments. Currently Thomas Bean Towers and Tapiz at Mariposa maintain separate site-based waitlists.

Opening the Waitlist

DHA will announce the opening of the waitlist prior to the date applications will first be accepted. If the list is only being opened for certain categories, this information will be contained in the notice. The notice will specify where, when, and how applications are to be received.

DHA will give public notice by publishing the relevant information in suitable media outlets and the DHA website.

Closing the Waitlist

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

Where DHA has particular preferences or other criteria that require a specific category of family, DHA may elect to continue to accept applications from these applicants while closing the waitlist to others.

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

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

4-II.C. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While the family is on the waitlist, the family must inform DHA, within 10 business days, of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing. DHA will not transfer the interest card/pre-application to a person who was not listed on the original application.

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

4-II.D. UPDATING THE PRE APPLICATION WAITLIST OR APPROVED WAITLIST [24 CFR 960.202(a)(2)(iv)].

Purging the Pre Application Waitlist or the Approved Waitlist

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

To update the Pre Application Waitlist or the Approved Waitlist, DHA will send an update request via first class mail to each family on the waitlist to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that DHA has on record for the family. The update request will provide a deadline by which the

family must respond and will state that failure to respond will result in the applicant's name being removed from the waitlist.

The family's response must be in writing and may be delivered in person and by mail. Responses should be postmarked or received by DHA not later than 14 calendar days from the date of the DHA letter.

If the family fails to respond within 14 calendar days, the family will be removed from the waitlist without further notice.

If the notice is returned by the post office, the applicant will be removed from the waitlist without further notice.

When a family is removed from the waitlist during the update process for failure to respond, no informal hearing will be offered. Such failures to act on the part of the applicant prevent DHA from making an eligibility determination; therefore no informal hearing is required.

If a family is removed from the waitlist for failure to respond, DHA may reinstate the family if the lack of response was due to DHA error, or to circumstances beyond the family's control.

Removal from the Pre Application Waitlist or the Approved Waitlist

DHA will remove an applicant from the waitlist upon written request by the applicant family. In such cases no informal hearing is required.

If DHA determines that the family is not eligible for admission at any time while the family is on the waitlist the family will be removed from the waitlist.

If a family is removed from the waitlist because DHA has determined the family is not eligible for admission, a notice will be sent to the address provided by the applicant. The notice will state the reasons the family was removed from the waitlist and will inform the family how to request an informal hearing regarding DHA's decision [24 CFR 960.208(a)].

If the family is removed from the waitlist the family may reapply for assistance when the waitlist is reopened.

PART III: TENANT SELECTION [24 CFR 960.201(a)]

4-III.A. SELECTION METHOD

Local Preferences [24 CFR 960.206]

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

DHA will use the following local preferences:

Homeless Transitional Family: A preference for forty (40) homeless transitional families that have been certified as a transitional homeless family. This preference is coordinated through the Volunteers of America.

Family Homestead: A preference for thirty (30) homeless transitional families that have been certified as a transitional homeless family.

Working Family Income: if an applicant has any of the following sources of income, then the application will be approved with a local preference:

1. Old Age Pension (OAP)
2. Social Security (SS or SSDI)
3. Supplemental Security Income (SSI)
4. Private Pension
5. Federal Wage
6. Employed
7. Military
8. Assets
9. Veteran Death and Disability (VA Pension)
10. Workman's Compensation

The Working Family local preference shall be given to the following families in descending order of priority:

- a) Income Tier III families, earning between 50% and 80% of the area median income as defined by HUD will be given three points.
- b) Income Tier II families, earning between 30% and up to 50% of the median income as defined by HUD will be given two points.
- c) Income Tier I families, earning between less than 30% of the median income as defined by HUD will be given one point.

Income Targeting Requirement [24 CFR 960.202(b)]

HUD requires that extremely low-income (ELI) families make up at least 40% of the families admitted to public housing during DHA's fiscal year. ELI families are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, DHA may skip non-ELI families on the waitlist in order to select an ELI family.

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

Mixed Population Developments [24 CFR 960.407]

A mixed population development is a public housing development or portion of a development that is reserved for elderly families and/or disabled families for which DHA has obtained HUD approval to give preference in tenant selection for all units in the development to elderly and disabled families [24 CFR 960.102].

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

DHA may designate projects or portions of a public housing project specifically for elderly or disabled families. [24 CFR 5.403].

Interest Card Waitlist Order of Selection [24 CFR 960.206(e)]

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

DHA will notify the family by first class mail when it is selected from the interest card waitlist. If a notification letter is returned to DHA the family will be removed from the interest card waitlist without further notice. Such failure to act on the part of the applicant prevents DHA from making an eligibility determination; therefore no informal hearing will be offered.

After the family has completed the application packet, the family will return it to DHA. DHA will evaluate the packet for completeness. DHA will then schedule the family for an interview.

4-III.D. THE APPLICATION INTERVIEW

Families selected from the interest card waitlist who have completed a full application packet are required to participate in an eligibility interview.

The head of household and all adult members are required to attend the interview.

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

If the family is claiming a waitlist preference, the family must provide documentation to verify their eligibility for a preference. If the family is verified as eligible for the preference, DHA will proceed with the interview.

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

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame the family will be sent a notice of denial.

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

Interviews will be conducted in English. For Limited English Proficient (LEP) applicants, DHA will provide services in accordance with DHA's LEP plan.

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

4-III.E. APPROVED WAITLIST DETERMINATION [24 CFR 960.208]

DHA must verify all information provided by the family. Based on verified information related to the eligibility requirements, including DHA suitability standards, DHA must make a final determination of eligibility.

When a determination is made that a family is eligible and satisfies all requirements for admission, including tenant selection criteria, DHA will notify a family in writing of their eligibility to be placed on approved waitlist and will provide the approximate date of occupancy insofar as that date can be reasonably determined. [24 CFR 960.208(b)].

When selecting applicants from the approved waitlist, DHA will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waitlists. DHA will offer the unit to the highest ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.

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

For Site Based Wait List Applicants: In the event a specific site is not available for occupancy and an applicant or current resident has been approved for a site specific property, DHA will allow these individuals to transfer to the general waitlist, keeping their original time and date of application as their place on the new waitlist. In these circumstances the individual will be given one offer from the general waitlist and if refused the individual will remain on the "site based" waitlist.

If DHA determines that the family is ineligible, DHA will send written notification of the ineligibility determination. [24 CFR 960.208(a)] The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing.

Chapter 5

OCCUPANCY STANDARDS AND UNIT OFFERS

PART I: OCCUPANCY STANDARDS

5-I.A. DETERMINING UNIT SIZE [24 CFR 960.206(c); PH Occ GB, p. 62]

The following guidelines are used to determine the number of bedrooms required to accommodate a family of a given size without overcrowding or over-housing. These guidelines may be waived, on a case-by-case basis, for legitimate reasons, or if it is necessary to achieve or maintain full occupancy.

Although DHA does determine the size of unit the family qualifies for under the occupancy standards, DHA does not determine who shares a bedroom/sleeping room. For the purposes of determining the number of bedrooms required, every family member, regardless of age, is counted as a person. In determining bedroom size, DHA will include children who are temporarily absent. DHA will assign one bedroom for each two persons within the household, except in the following circumstances:

- Persons of the opposite sex (other than significant others) will not be required to share a bedroom.
- At admission Persons of different generations other than significant others (10 year age difference) will not be required to share a bedroom.
- Live-in Aides will be allocated one (1) separate bedroom. To be allocated a separate subsidized bedroom the Live-in Aide must be a U.S. citizen, U.S. national, or noncitizen that has eligible immigration status. Although a Live-in Aide may have DHA-approved family member/s live with him/her in the assisted unit, no additional bedrooms will be provided for the family members of the Live-in Aide.
- Single person families will be allocated a studio or one bedroom.
- Foster children will be included in determining unit size.
- A family that consists of a pregnant woman (with no other persons) will be treated as a two-person family.

At occupancy DHA will reference the following standards in determining the appropriate unit bedroom size for a family:

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	1
1	1	2
2	2	4
3	3	6

4	5	8
5	7	10

5-I.B. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

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

For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function as a reasonable accommodation for a person with disabilities.

An exception may also be granted for a smaller bedroom size in cases where the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides and the family does not want to transfer to a larger size unit. Such requests must meet the City and County of Denver's minimum space requirements.

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

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

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

Processing of Exceptions

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

Requests for a larger size unit must explain the need or justification for the larger size unit, and must include appropriate documentation. Requests based on health-related reasons must be in compliance with DHA's Reasonable Accommodation in Housing Guidelines ("RAHG").

Housing Assistance Limitation for Single Persons/ Conventional Public Housing

At admission a single person who is not elderly or a person with disabilities may not be provided a housing unit with two or more bedrooms.

PART II: UNIT OFFERS

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

5-II.A. ASSIGNMENT OF UNITS/CONVENTIONAL PUBLIC HOUSING

As an applicant approaches the top of the waiting list they shall be assigned an appropriate size unit. In the event that two or more applicants require the same size unit the date and time of approval will determine which applicant is given the first offer.

DHA has accessible units that are designed to provide specific accommodations to qualified individuals with a disability. 24 CFR 8.27. When an accessible unit becomes vacant, before offering such unit to a non-disabled applicant, DHA will offer such unit: (a) first, to a current DHA tenant, who has disabilities requiring the accessibility features of the vacant unit and who occupies a unit not having such features, or, if no such occupant exists, then (b) to an eligible qualified applicant on the waiting list who has a disability requiring the accessibility features of the vacant unit, or if no such occupant or applicant exists, then (c) to an eligible applicant not having a disability requiring the accessibility features of the unit. However, DHA will require the non-disabled applicant to agree to move to a non-accessible unit when available, at the family's expense, and will incorporate this requirement into the lease.

At the time the next applicant on the waiting list is selected, he/she shall be offered a suitable unit. If the applicant rejects the offer or the applicant fails to make a decision as to whether he/she wants the unit offered within three (3) working days of the time it was offered, then it will be considered that the applicant has rejected the offer. The applicant will then be offered a second suitable unit. If the applicant rejects the second offer or the applicant fails to make a decision as to whether he/she wants the unit offered within three (3) working days of the time it was offered, then it will be considered that the applicant has rejected the second offer. If the applicant rejects the second offer the Occupancy Department will remove the application from the active waiting list. The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until DHA opens the waiting list.

For purposes of this section, an applicant will not be considered to have been offered a unit if:

- a) The unit offered is not the proper size or does not contain the necessary accessible features;
- b) The applicant is 62 years of age or older and requested a unit in a building designated as "elderly only," but was not offered a unit in an "elderly only" building;
- c) The applicant requires an accessible unit, but was not offered such a unit;
- d) An elderly family declines an offer for designated housing. 24 CFR 945.303(d); or
- e) The applicant has good cause for refusing a unit. DHA will require documentation of good cause for unit refusals. Good cause will be determined by DHA. Refusals due to location alone do not qualify for this good cause exemption.

The head of household and all adult members, including any approved Live-in Aide, are required to be present to accept any offer made by DHA.

DHA will maintain a record of units offered, including location, date, and circumstances of each offer, and each rejection or acceptance for a reasonable time. DHA will note the reason for any rejection.

5-II.B. WAITING LIST - CONVENTIONAL PUBLIC HOUSING

- 1) The waiting list shall contain the following information for each applicant listed:
 - (a) Applicant name;
 - (b) Family unit size;
 - (c) Date and time of application;
 - (d) Qualification for local preference, if any,; and
 - (e) Racial or ethnic designation of the Head of Household.
- 2) The order of admission to the waiting list will be based on date of application.
- 3) Placement on the waiting list will then be prioritized by the local selection preference for Conventional Public Housing.
- 4) When DHA opens and closes the public housing waiting list, DHA will give public notice, on DHA's website, and by publication in local newspapers of general circulation and also minority media that families may apply for the Conventional Public Housing program. The public notice will state when and where to apply. The notice will comply with HUD fair housing requirements and will state any limitations on who may apply.
- 5) DHA may, in its sole and absolute discretion, open the waiting list to ONLY certain subcategories of "Family".

5-II.C. ASSIGNMENT OF UNITS/SITE-BASED WAITING LISTS

A. Thomas Bean Towers

Thomas Bean Towers is a HOPE VI Redevelopment project. This mixed-income development is comprised of tax credit and public housing units and is managed by DHA but is privately owned ("TBT Owner"). The public housing units at this site will be filled using a site-based waiting list. Adoption of a site-based waiting list would not violate any court order, settlement agreement or be inconsistent with a pending HUD complaint. DHA will comply with all the requirements set forth 24 in C.F.R. §903.7(b)(2).

At the time the applicant on the waiting list is selected, he/she shall be offered a suitable unit. If the applicant rejects the offer or the applicant fails to make a decision as to whether he/she wants the unit offered within three (3) working days of the time it was offered, then it will be considered that the applicant has rejected the offer.

If the applicant rejects the offer the Occupancy Department will remove the application from the active waiting list. The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until DHA opens the waiting list.

The site-based waiting list allows applicants to move to the development of their choice and will attract a more diverse population with a broader range of incomes to Thomas Bean Towers.

B. Tapiz at Mariposa

Tapiz at Mariposa is a HOPE VI Redevelopment project. This mixed-income development is comprised of tax credit and public housing units and is managed by DHA but is privately owned (“Tapiz Owner”). The public housing units at this site will be filled using a site-based waiting list. Adoption of a site-based waiting list would not violate any court order, settlement agreement or be inconsistent with a pending HUD complaint. DHA will comply with all the requirements set forth 24 in C.F.R. §903.7(b)(2).

At the time the applicant on the waiting list is selected, he/she shall be offered a suitable unit. If the applicant rejects the offer or the applicant fails to make a decision as to whether he/she wants the unit offered within three (3) working days of the time it was offered, then it will be considered that the applicant has rejected the offer.

If the applicant rejects the offer the Occupancy Department will remove the application from the active waiting list. The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until DHA opens the waiting list.

The site-based waiting list allows applicants to move to the development of their choice and will attract a more diverse population with a broader range of incomes to Tapiz at Mariposa.

Chapter 6

INCOME AND RENT CALCULATIONS

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

PART I: ANNUAL INCOME (24 CFR 5.609)

6-I.A. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in Aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(a)(1)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included.

Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Employment income above \$480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

Generally an individual who is or is expected to be absent from the assisted unit for 30 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

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

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

If a child has been placed in foster care, DHA may verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member. However, DHA will consider the child permanently removed if the absence will exceed 180 days. In the event the child is returned to the home the family may request to add the child onto the lease and household composition.

Absent Head, Spouse, or Cohead

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

Individuals Confined for Medical Reasons

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

If there is a question about the status of a family member, DHA will request verification from a responsible medical professional whether and when the family member is expected to be returned to the home. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member. In the event the family member is returned to the home the family may request to add the family member onto the lease and household composition.

Joint Custody of Children

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the family 51 percent or more of the time.

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

Home Health Care Income received

Wages earned from a state agency by a family member living in the home as a personal care attendant of another family member living in the home is not excluded from income unless the individual receiving such income is designated as a Live-in Aide.

Caretakers for a Child

The approval of a caretaker is at DHA's discretion and subject to DHA's screening criteria including proof of prior residency.

6-I.B. ANTICIPATING ANNUAL INCOME [24 CFR 5.609(a)(2)]

Basis of Annual Income Projection

DHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes DHA to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected

- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- DHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

DHA is required to use HUD's Enterprise Income Verification (EIV) system as a third party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].

When EIV is obtained and the family does not dispute the EIV employer data, DHA will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, tenant must provide current and consecutive pay stubs dated within the last 60 days.

DHA will obtain written and/or oral third-party verification in the following cases:

- If EIV or other UIV data is not available,
- If the family disputes the accuracy of the EIV employer data, and/or
- If DHA determines additional information is needed.

In such cases, DHA will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how DHA annualized projected income.

When DHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, ongoing temporary agency work, unstable working hours, or suspected fraud), DHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to DHA to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

If DHA verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

Example: An employer reports that a full-time employee who has been receiving \$8/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the reexamination. In such a case DHA would calculate annual income as follows: $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks})$.

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases DHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs.

When tenant-provided third-party documents are used to anticipate annual income, they must be dated within the last 60 days of the reexamination interview date.

6-I.C. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation [24 CFR 5.609(b)(1)]

The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income.

For persons who regularly receive bonuses or commissions, DHA may verify and then average amounts received. The family may provide, and DHA may consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, DHA will count only the amount estimated by the employer. The file will be documented appropriately.

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]

This type of income (including gifts) is not included in annual income.

Sporadic income is income that is not received periodically and cannot be reliably predicted. Independent contractor's income, including ongoing temporary agency work, is not considered sporadic. Seasonal work is not considered sporadic. Bonuses and other pre-established payments by employers are not considered sporadic. Taxi and shared ride income is not considered sporadic.

Certain Earned Income of Full-Time Students

Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program.

Income of a Live-in Aide

Income earned by a Live-in Aide, as defined in 24 C.F.R. 5.403, is not included in annual income [24 CFR 5.609(c)(5)].

Resident Service Stipend [24 CFR 5.600(c)(8)(iv)]

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed \$200 per individual per month) received by a resident for performing a service for DHA.

State and Local Employment Training Programs

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment

training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

DHA defines *training program* as a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education. Training may also include certain qualifying state and local vocational training programs.

End of participation in a training program must be reported in accordance with DHA's interim reporting requirements.

HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income.

6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255]

The earned income disallowance (EID) encourages people to enter the work force by not including the full value of increases in earned income for a period of time.

Eligibility

This disallowance applies only to individuals in families already participating in the public housing program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

DHA defines *prior income*, or *prequalifying income*, as the family member's last certified income prior to qualifying for the EID.

The family member's prior, or prequalifying, income remains constant (as a baseline) throughout the period that he or she is participating in the EID.

Initial 12-Month Exclusion

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are consecutive.

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion and Phase-In

During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are consecutive.

Lifetime Limitation

Effective April 7, 2016 EID has a two year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

Those household members receiving EID prior to April 7, 2016, will continue to receive a four-year (48-month) lifetime maximum.

6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]

Annual income includes "the net income from the operation of a business or profession. DHA may require a profit and loss statement and a business plan to determine Business Income.

Business Expenses

Net income is gross income less business expense. DHA may require a filed IRS Schedule C filed by the family member reporting Business Expenses.

6-I.G. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

Income from Assets

DHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. Assets are to be verified at time of initial eligibility and every

three (3) years during the recertification process. During the intervening annual reexaminations, DHA will accept a family's declaration that it has total net assets equal to or less than \$5000.

Valuing Assets

The calculation of asset income sometimes requires DHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [PH Occ GB, p. 121].

Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs].

Imputing Income from Assets [24 CFR 5.609(b)(3), Notice PIH 2012-29]

When net family assets are \$5,000 or less, DHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of \$5,000, DHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by DHA.

Determining Actual Anticipated Income from Assets

It may or may not be necessary for DHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used.

Jointly Owned Assets

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access."

If an asset is owned by more than one person and any family member has unrestricted access to the asset, DHA will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

Assets Disposed Of for Less than Fair Market Value [24 CFR 5.603(b)]

HUD regulations require DHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Types of Assets

Checking and Savings Accounts

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

In determining the value of a checking account, DHA will use the six months average balance.

In determining the value of a savings account, DHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, DHA will multiply the value of the account by the current rate of interest paid on the account.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

In determining the market value of an investment account, DHA will use the value of the account on the most recent investment report.

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset 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 [PH GB, p. 121].

Trusts

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

Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

Nonrevocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)].

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, DHA must know whether the money is accessible before retirement.

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset.

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate, except to the extent that it represents funds invested in the account by the family member.

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset.

Life Insurance

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

6-I.H. PERIODIC PAYMENTS

Periodic payments are forms of income received on a regular basis.

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4)]

Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b)(4)]. Additionally, any deferred disability benefits that are received in a lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [FR Notice 11/24/08].

When a delayed-start payment is received and reported during the period in which DHA is processing an annual reexamination, DHA will adjust the tenant rent retroactively for the period

the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with DHA.

Treatment of Overpayment Deductions from Social Security Benefits

DHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, DHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2012-10].

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship care payments are considered equivalent to foster care payments and are also excluded from annual income [Notice PIH 2012-1]. DHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency.
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Lump sums received as a result of delays in processing Social Security and SSI payments [24 CFR 5.609(b)(4)].

6-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum payments [24 CFR 5.609(c)(3)].

6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

DHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families.

Covered Families

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, DHA must include in annual income “imputed” welfare income. DHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with a tenant family.

Alimony and Child Support

DHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

DHA will count court-awarded amounts for alimony and child support unless DHA verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.

Regular Contributions or Gifts

DHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with a tenant family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)]. Repeated contributions from the same individual in varied amounts will not be considered sporadic income.

Examples of regular contributions include: (1) regular payment of a family’s bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) “in-kind” contributions such as groceries, clothing, and other material support provided to a family on a regular basis.

Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by DHA. For contributions that may vary from month to month (e.g., utility payments), DHA will include an average amount based upon past history.

6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter including but not limited to the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- The full amount of student financial assistance including any additional fees paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)]. Regular financial support from parents or guardians to students for food, clothing personal items, and entertainment is not considered student financial assistance and is included in annual income.
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(c)(12)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17), FR Notice 12/14/12].

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity (DHA) must deduct the following amounts from annual income:

- (1) \$480 for each dependent;
- (2) \$400 for any elderly family or disabled family;
- (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
 - (i) Unreimbursed medical expenses of any elderly family or disabled family;
 - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the

family (including the member who is a person with disabilities) to be employed. 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; and

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

Anticipating Expenses

Generally, DHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and nonschool periods and cyclical medical expenses), DHA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, DHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. DHA may require the family to provide documentation of payments made in the preceding year.

6-II.B. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of *Medical Expenses*

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean “medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.”

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used as a reference to determine the costs that qualify as medical expenses.

6-II.C. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Payments to Family Members

No disability expenses may be deducted for payments to a member of a tenant family [23 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the tenant family may be deducted if they are reimbursed by an outside source.

6-II.F. CHILD CARE EXPENSE DEDUCTION 24 CFR 5.603(b)

Child care expenses is defined as “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 child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

The most current Department of Human Services Child Care Assistance Program (CCAP) annual schedule, will be used as a reference to determine the allowable child care deductions.

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family’s household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family’s household are included when determining the family’s child care expenses.

Qualifying for the Deduction

- ***Seeking Work***

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member’s efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member’s job search efforts are not commensurate with the child care expense being allowed by DHA.

- ***Furthering Education***

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

- ***Being Gainfully Employed***

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member’s employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and

reasonable. However, when child care enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person’s earned income that actually is included in annual income.

Eligible Child Care Expenses

The type of care to be provided is determined by the tenant family. DHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

- ***Allowable Child Care Activities***

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family’s unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

- ***Necessary and Reasonable Costs***

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, DHA will use the Department of Human Services Child Care Assistance Program (CCAP) annual schedule. Families may present, and DHA will consider, justification for costs that exceed typical costs in the area.

6-II.G. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)]

Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. DHA offers permissive deductions which will be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128].

DHA has permissive deductions for:

- (1) Any child support payment made by a member of the family for the support and maintenance of any child who does not reside in the household.
- (2) Amounts received by a person while employed as a DHA Resident Caretaker which exceeds the \$200 stipend permitted by 24 CFR Section 5.609. This amount will be subject to the 10% Rent Rule.
- (3) Amount of income received by all family members whose head of household is employed as a Resident Caretaker. This income is deducted during the term of the Resident Caretaker Contract. This amount will be subject to the 10% Rent Rule.

PART III: CALCULATING RENT

6-III.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for a tenant family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- A minimum rent that is established by DHA [24 CFR 5.630]

DHA has authority to suspend and exempt families from minimum rent when a financial hardship exists.

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview

DHA establishes a minimum rent greater than zero. DHA will grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent.

Defined Financial Hardship

Financial hardship includes the following situations:

- (1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program.
- (2) The family would be evicted because it is unable to pay the minimum rent.

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.

- (3) Family income has decreased because of changed family circumstances, including the loss of employment.
- (4) A death has occurred in the family.
- (5) The family has experienced other circumstances determined by DHA.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, DHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

DHA will make the determination of hardship within 30 days.

No Financial Hardship

If DHA determines the family is not eligible for financial hardship, DHA will reinstate the minimum rent and require the family to repay the amounts suspended.

DHA may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.

6-III.C. UTILITY ALLOWANCES [24 CFR 965, Subpart E]

Utility Allowance Revisions [24 CFR 965.507]

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, DHA must use the utility allowance applicable to the type of dwelling unit leased by the family.

Reasonable Accommodation [24 CFR 8]

On request from a family, DHA will approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [PH Occ GB, p. 172].

6-III.D. PRORATED RENT FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. DHA must prorate the assistance provided to a mixed family. DHA will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, DHA must:

- (1) Subtract the TTP from the flat rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.

- (2) Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).
- (3) Multiply the member maximum subsidy by the number of eligible family members.
- (4) Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP.
- (5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

6-III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253]

Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

When the family elects to pay the flat rent, the flat rent amount quoted to the family by DHA is the amount the family pays. Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Family Choice in Rents [24 CFR 960.253(a) and (e)]

Once each year, DHA must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. DHA must document that flat rents were offered to families under the methods used to determine flat rents for DHA.

The annual DHA offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

DHA will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.

Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]

A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If DHA determines that a financial hardship exists, DHA must immediately allow the family to switch from flat rent to the income-based rent.

Upon determination by DHA that a financial hardship exists, DHA will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items
- Such other situations determined by DHA to be appropriate

DHA considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

Change in Flat Rents

Changes to flat rent amount, up or down, will not affect families paying flat rent until their next annual flat rent offer, at which time the family will be given the choice of switching back to income-based rent or of remaining on flat rent at the current (most recently adjusted) flat rent for their unit [PH Occ GB, pp. 137-138].

Flat Rents and Earned Income Disallowance

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

Chapter 7 VERIFICATION

[24 CFR 960.259, 24 CFR 5.230, Notice PIH 2010-19]

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 960.259, 24 CFR 5.230]

Consent Forms

It is required that all adult applicants and tenants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, DHA will deny admission to applicants and terminate the lease of tenants. The family may request a hearing in accordance with DHA's grievance procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy [Notice PIH 2010-19]

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will

be used. In general, HUD requires DHA to use the most reliable form of verification that is available and to document the reasons when DHA uses a lesser form of verification.

In order of priority, the forms of verification that DHA will use are:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system.
- Up-front Income Verification (UIV) using a non-HUD system (i.e. Work Number).
- Written Third Party Verification (i.e. 4-6 consecutive recent paystubs).
- Written Third-party Verification Form
- Oral Third-party Verification
- Self-Certification

Requirements for Acceptable Documents

Any documents used for verification must be the original and generally must be dated within 60 days of the date they are provided to DHA. The documents must not be damaged, altered or in any way illegible. Electronic copies and faxes are considered original documents. Any family self-certifications must be made in a format acceptable to DHA and must be signed in the presence of a DHA representative or a notary public.

File Documentation

DHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

DHA will document, in the family file, the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions
- Other factors influencing the adjusted income or income-based rent determination

When DHA is unable to obtain third-party verification, DHA will document why third-party verification was not available [24 CFR 960.259(c)(1)].

Written Third-Party Verification [Notice PIH 2010-19]

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source. Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. DHA is required to obtain, at minimum, four to six current and consecutive pay stubs for

determining annual income from wages. DHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

Written Third-Party Verification Form

When upfront verification is rejected by DHA or is not available and the family is unable to provide written third-party documents, DHA must request a written third-party verification form.

Oral Third-Party Verification [Notice PIH 2010-19]

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time.

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Imputed Assets

DHA may accept a self-certification from a family as verification of assets disposed of for less than fair market value.

7-I.E. SELF-CERTIFICATION

When information cannot be verified by a third party or by review of documents, family members may be required to submit self-certifications attesting to the accuracy of the information they have provided to DHA.

The self-certification must be made in a format acceptable to DHA and must be signed by the family member whose information or status is being verified. All self-certifications must be notarized.

7-I.F. STREAMLINING RULE

Streamlined annual reexamination for fixed sources of income. Households receiving income from a “fixed-income” source (Social Security; SSI; SSDI, Federal, State, Local and private pension plans, other periodic payments from annuities, insurance policies, retirement funds, disability or death benefits and other similar types of periodic payments. Therefore DHA would not have to obtain third party verification at move in and every three years.

For assets under \$5000 only third party verification at move in and every three years is required.

PART II: Verifying FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

DHA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
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Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) Current U.S. passport Current employer identification card College or high school identification card Medicare/Medicaid identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records
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If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where DHA has reason to doubt the identity of a person representing him or herself to be a tenant or a member of a tenant family.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2012-10]

The family must provide documentation of a valid social security number (SSN) for each member of the household, including all minor children, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

DHA may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, is illegible, or if the document appears to be forged.

DHA will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to DHA.

Social security numbers must be verified only once during continuously-assisted occupancy.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members under the age of eighteen.

7-II.D. FAMILY RELATIONSHIPS

Applicants and tenants are required to identify the relationship of each household member to the head of household.

Marriage/ Domestic Partnerships

Certification by the head of household is normally sufficient verification. If DHA has reasonable doubts about a marital/partnership relationship, DHA will require the family to document the partnership.

In the case of a common law marriage or partnership, the couple must demonstrate that they hold themselves to be married or in a partnership. This specifically is meant to include same sex partnerships.

Separation or Divorce

Certification by the head of household is normally sufficient verification. If DHA has reasonable doubts about a divorce or separation, DHA will require the family to provide documentation of the divorce or separation.

Absence of Adult Member

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

Foster Children and Foster Adults

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

DHA also specifically recognizes the Delegation of Power by Parent or Guardian pursuant to C.R.S. §15-14-105.

7-II.E. VERIFICATION OF STUDENT STATUS

DHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status (as defined by the school) for an adult other than the head, spouse, or cohead, or
- The family claims a child care deduction to enable a family member to further his or her education.

7-II.F. DOCUMENTATION OF DISABILITY

DHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. DHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. Under no circumstances will DHA request a resident's medical record(s). If DHA receives a verification document that provides such information, DHA will not place this information in the resident file.

DHA may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of tenancy

- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities
- Inquiry about whether an applicant for a dwelling is a current abuser or addict of a controlled substance
- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions (i.e. SSI/SSDI).

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability may not be sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

U.S. Citizens and Nationals

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)]

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance.

DHA Verification

For family members age 62 or older who claim to be eligible immigrants, proof of age is required. No further verification of eligible immigration status is required. For family members under the age of 62 who claim to be eligible immigrants, DHA must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

7-II.H. VERIFICATION OF PREFERENCE STATUS

DHA must verify any preferences claimed by an applicant that determined his or her placement on the waiting list.

PART III: Verifying Income and Assets

7-III.A. EARNED INCOME

Wages

For wages other than tips, the family must provide originals of the most current, consecutive pay stubs for the period covering 4 to 6 weeks prior to the request date.

Tips

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

Business owners and self-employed persons will be required to provide:

- A financial statement for the previous fiscal year. A statement of profit and loss, as well as a business plan, must be submitted and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.
- DHA may provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year.
- At any reexamination DHA may request documents that support submitted financial statements.
- If a family member has been self-employed less than three (3) months, DHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months DHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

To verify the SS/SSI benefits of applicants, DHA will request a current SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, DHA will help the applicant request a benefit verification letter from SSA.

7-III.D. ALIMONY OR CHILD SUPPORT

The methods DHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it *receives regular payments*, verification will be obtained in the following order of priority:

- Third-party verification form from the state or local child support enforcement agency
- Third-party verification form from the person paying the support
- Family's self-certification of amount received

If the family declares that it *receives irregular or no payments*, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

- Completing a child support affidavit.

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. DHA needs to verify only those certifications that warrant documentation.

7-III.F. RETIREMENT ACCOUNTS

DHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts. The type of original document that will be accepted depends upon the family member's retirement status.

7-III.H. INCOME FROM EXCLUDED SOURCES

Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds) [Notice PIH 2013-04].

DHA may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, DHA has the option of requiring additional verification.

7-III.I. ZERO ANNUAL INCOME STATUS

DHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, etc. are not being received by families claiming to have zero annual income. See also DHA's Steps to Success Procedure.

PART IV: Verifying Mandatory Deductions

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

Dependent Deduction

DHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

DHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Amount of Expense

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- DHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. DHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
- Written third-party verification forms, if the family is unable to provide acceptable documentation.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, DHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Amount of Expense

Attendant Care

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

In addition, DHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities.
- The expense permits a family member, or members, to work.
- The expense is not reimbursed from another source.

7-IV.D. CHILD CARE EXPENSES

DHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable. The most current Department of Human Services Child Care Assistance Program (CCAP) annual schedule will be used as a reference to determine the allowable child care deductions.

Pursuing an Eligible Activity

DHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

Information to be Gathered

DHA may verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students),

the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

- Seeking Work
- Furthering Education
- Gainful Employment

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, and does not include tuition.

DHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

DHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

The actual costs the family incurs will be compared with the DHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable. The most current Department of Human Services Child Care Assistance Program (CCAP) annual schedule will be used as a reference to determine the allowable child care deductions.

If the family presents a justification for costs that exceed typical costs in the area, the DHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Chapter 8

LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

PART I: LEASING

8-I.A. LEASE ORIENTATION

After unit acceptance but prior to occupancy, a DHA representative will conduct a lease orientation with the household. All adults, including adult children and Live-in Aides are required to attend.

8-I.B. EXECUTION OF LEASE [24 CFR 966.4].

The head of household, spouse and/or co-head will be required to sign the public housing lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The

head of household will be provided a copy of the executed lease and DHA will retain a copy in the resident's file.

8-I.C. MODIFICATIONS TO THE LEASE

DHA may modify its lease from time to time in compliance with 24 CFR 966.3, 24 CFR 966.4, and 24 CFR 966.5.

Other Modifications

The lease will be amended to reflect all changes in family composition and a new lease will be executed between the head of household, spouse and/or co-head and DHA.

8-I.D. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

Residents must pay a security deposit to DHA in full prior to occupancy. The security deposit will be charged based on bedroom size in an amount determined by DHA.

DHA will hold the security deposit for the period the family occupies the unit. DHA will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, DHA will refund to the resident the amount of the security deposit, less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

DHA will provide the resident with a written list of any charges against the security deposit after the move-out inspection.

If the resident transfers to another unit, DHA will transfer the security deposit to the new unit. If the security deposit for the previous unit is less than the security deposit for the new unit, the family will be required to pay the difference. The resident also will be billed for any maintenance, rent or other charges due for the "old" unit.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments [24 CFR 966.4(b)(1)]

Families must pay the amount of the monthly resident rent determined by DHA in accordance with HUD regulations and other requirements.

Late Fees and Nonpayment [24 CFR 966.4(b)(3)]

The lease provides for payment of penalties when the family is late in paying resident rent.

Excess Utility Charges

When applicable, families will be charged for excess utility usage according to the DHA's current posted schedule. Notices of excess utility charges will be mailed monthly. Nonpayment of excess utility charges is a violation of the lease and is grounds for eviction.

Maintenance and Damage Charges

When applicable, families will be charged for maintenance and/or damages according to DHA's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable). Notices of maintenance and damage charges will be mailed monthly. Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

PART II: INSPECTIONS

8-II.A. TYPES OF INSPECTIONS

Move-In Inspections [24 CFR 966.4(i)]

The lease must require DHA and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by DHA and the resident, must be provided to the resident and retained in the resident file.

Move-Out Inspections [24 CFR 966.4(i)]

DHA must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes, unless the resident vacates without notice to DHA. When applicable, DHA will provide the resident with a statement of charges to be made for maintenance and damage beyond normal wear and tear after conducting the move-out inspection.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

Annual Inspections [24 CFR 5.705]

DHA is required to inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS).

Special Inspections

DHA may conduct a special inspection for any of the following reasons:

- Housekeeping
- Unit condition
- Suspected lease violation
- Preventive maintenance
- Routine maintenance
- There is reasonable cause to believe an emergency exists

Other Inspections

Building exteriors, grounds, common areas and systems will be inspected according to DHA's maintenance plan.

8-II.B. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j)(1)]

DHA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing.

For regular annual inspections, the family will receive sufficient notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for DHA to enter the unit.

Emergency Entries [24 CFR 966.4(j)(2)]

DHA may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, DHA, when applicable, will leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

Scheduling of Inspections

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify DHA at least 24 hours prior to the scheduled inspection. DHA will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. DHA may request verification of such cause.

Attendance at Inspections

Residents are required to be present for move-in inspections [24 CFR 966.4(i)]. Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if he or she wishes. If no one is at home, DHA will enter the unit, conduct the inspection and send the family a written statement of the results of the inspection.

8-II.C. INSPECTION RESULTS

DHA is obligated to maintain dwelling units and the project in decent, safe and sanitary condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

Emergency Repairs [24 CFR 966.4(h)]

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the resident must immediately notify DHA of the damage, and DHA must make repairs within a reasonable time frame.

If the damage was caused by a household member or guest, DHA must charge the family for the reasonable cost of repairs. DHA may also take lease enforcement action against the family.

If DHA cannot make repairs quickly, DHA must offer the family standard alternative accommodations. If DHA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

When conditions in the unit are hazardous to life, health, or safety, DHA will attempt to make repairs or otherwise abate the situation within a reasonable amount of time.

Defects hazardous to life, health or safety include, but are not limited to, the following:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Gas or fuel leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 40 degrees Fahrenheit
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke and/or carbon monoxide detectors

Non-emergency Repairs

DHA will correct non-life threatening health and safety defects within a reasonable amount of time of the inspection date. If there is a delay in the ability to make repairs due to circumstances beyond DHA's control (e.g. required parts or services are not available, weather conditions, etc.) DHA will notify the family of an estimated date of completion.

The family must allow DHA access to the unit to make repairs.

Resident-Caused Damages

Damages to the unit beyond wear and tear will be billed to the resident in accordance with DHA's Resident Standard Charge List.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Housekeeping

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, DHA will provide proper notice of a lease violation.

Chapter 9

REEXAMINATIONS

[24 CFR 960.257, 960.259, 966.4]

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS [24 CFR 960.257]

9-I.A. SCHEDULING ANNUAL REEXAMINATIONS [24 CFR 960.257(a)(1)].

DHA will schedule annual reexaminations to coincide with the family's anniversary date. DHA will begin the annual reexamination process 90 to 120 days in advance of the scheduled effective date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

DHA may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

DHA is required to obtain information needed to conduct annual reexaminations. Families are required to participate in an annual reexamination interview, which must be attended by all adult family members.

Notification of annual reexamination interviews will be sent by first-class mail, or by hand delivery, and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact DHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview DHA will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without DHA approval, the family will be in violation of their lease and may be subject to termination.

An advocate, interpreter, or other assistant may assist the family in the interview process.

9-I.B. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information regarding income and family composition as may be necessary for the redetermination of rent, eligibility, and the appropriateness of the housing unit [24 CFR 966.4(c)(2)].

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a DHA-designated

recertification questionnaire, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

DHA will provide a reasonable deadline for any required documents or information that the family is unable to provide at the time of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any DHA approved extensions), the family will be in violation of their lease and may be subject to termination.

After DHA has verified all necessary information, families will be required to attend an appointment to sign final recertification paperwork.

Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis.

Change in Unit Size [24 CFR 960.257(a)(4)]

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. DHA may use the results of the annual reexamination to require the family to move to an appropriate size unit.

Criminal Background Checks [24 CFR 5.903(e)(1)(ii)]

Information obtained through criminal background checks may be used for lease enforcement and eviction. Criminal background checks of residents may be conducted annually.

Compliance with Community Service [24 CFR 960.257(a)(3)]

For families who include nonexempt individuals, DHA must determine compliance with community service requirements once each 12 months.

9-I.C. EFFECTIVE DATES [24 CFR 960.257(a)(1)].

In general, an *increase* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If DHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by DHA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination.

In general, a *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If DHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by DHA.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by DHA by the date specified, and this delay prevents DHA from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS

[24 CFR 960.257(2)]

9-II.A. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

For families paying flat rents, DHA will conduct a full reexamination of family income and composition once every 3 years. In conducting full reexaminations for families paying flat rents, DHA will follow the policies used for the annual reexamination of families paying income-based rent as set forth above.

In the years between full reexaminations, regulations require DHA to conduct a reexamination of family composition ("annual update") and sign all necessary forms [24 CFR 960.257(a)(2)].

PART III: INTERIM REEXAMINATIONS [24 CFR 960.257; 24 CFR 966.4]

9-III.A. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates).

DHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

Families must request DHA approval to add a new family member, Live-in Aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than a total of 30 calendar days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by DHA prior to the individual moving into the unit.

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request DHA approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (Live-in Aide or foster child) [24 CFR 966.4(d)(3)].

The family must inform DHA of the birth, adoption, or court-awarded custody of a child within 10 business days. [24 CFR 966.4(a)(1)(v)].

DHA may adopt reasonable policies concerning residence by a foster child or a Live-in Aide, and defining the circumstances in which DHA consent will be given or denied. [24 CFR 966.4(d)(3)(i)].

DHA will not approve the addition of a new family or household member unless the individual meets DHA's eligibility criteria and documentation requirements.

If DHA determines that an individual does not meet DHA's eligibility criteria or documentation requirements, DHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

Departure of a Family or Household Member

If a household member ceases to reside in the unit, the family must inform DHA within 10 business days.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because DHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, DHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

DHA-initiated Interim Reexaminations

DHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by DHA. They are not scheduled because of changes reported by the family.

DHA will conduct interim reexaminations in each of the following instances:

- For families receiving the Earned Income Disallowance (EID), DHA will conduct an interim reexamination at the start, to adjust the exclusion with any changes in income, and at the conclusion of the first and second 12 month exclusion period.
- If the family has reported zero income, DHA will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.
- If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, DHA will conduct an interim reexamination.
- DHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations [24 CFR 960.257(b) &(c)].

The family is permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination

Required Reporting

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615].

Families must report all changes in income. If an increase in income is verified to be less than \$200 per month, an interim will not be processed.

If a decrease will be temporary, less than 30 days, the interim will not be processed.

9-III.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

The family must notify DHA of changes in writing through the Change of Circumstance form.

Based on the type of change reported, DHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from DHA. This time frame may be extended for good cause with DHA approval. DHA may accept required documentation by email, mail, by fax, or in person (except for third party verification forms).

Effective Dates

DHA must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent.

If the family share of the rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

PART IV: RECALCULATING TENANT RENT

9-IV.A. NOTIFICATION OF NEW TENANT RENT

DHA will give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When DHA redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, DHA will notify the tenant that the tenant may ask for an explanation stating the specific grounds of DHA determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under DHA's grievance procedure [24 CFR 966.4(c)(4)].

Families will sign the Form 10 which includes the annual and adjusted income amounts that were used to calculate the tenant rent.

9-IV.D. DISCREPANCIES

During an annual or interim reexamination, DHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, DHA may discover errors made by DHA. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made.

Chapter 10

ANIMALS

PART I: ASSISTANCE ANIMALS

DHA will allow, as a reasonable accommodation, a qualified person with a disability to own and keep an “assistance animal” (also referred to as service animal or companion animal) on DHA’s premises. An assistance animal is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability; or animals that provide emotional support that alleviate one or more identified symptoms or effects of a person’s disability. An assistance animal is not considered a pet and therefore is not subject to DHA’s Pet Policies [24 CFR 5.303; 24 CFR 960.705]. For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and DHA approve a reasonable accommodation in accordance with DHA’s Reasonable Accommodation in Housing Guidelines (“RAHG”).

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship (nexus) between the person’s disability and his or her need for the animal.

All qualified individuals with a disability approved to own and keep an assistance animal must execute an Assistance Animal Agreement. Additionally, dogs and cats must have all inoculations required by law, and be certified by a veterinarian licensed to practice in the State of Colorado.

Assistance animals may not be a nuisance or a wild or dangerous animal, as determined by DHA in its sole and absolute discretion, or as defined in the Denver Revised Municipal Code. By way of example and not limitation, a vicious dog or one which howls and barks incessantly will be excluded, even if the animal is certified or trained. Additionally, the resident must maintain good sanitary conditions in their unit, public and common areas (for example, immediate removal of all animal waste) with respect to the assistance animal; and is financially responsible for any damage caused by the assistance animal. [PH Occ GB, p. 179] However, because an assistance animal is not a pet, DHA will not require the owner of an assistance animal to pay a pet deposit.

DHA has the authority to regulate assistance animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 24 CFR 960.705(b)(3); Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303; 24 CFR 960.705]

PART II: PET POLICIES FOR ALL DEVELOPMENTS

DHA has established the following pet policies: 1) Pet Policy for Elderly/Disabled Developments; and 2) Family Housing Pet Policy. These policies are available for review upon request to the

building manager or Occupancy Department. Assistance animals are specifically excluded from these policies.

Pursuant to 24 C.F.R. §5.312, a resident of a dwelling unit in a building designated for “elderly only” or a high-rise designated for the elderly and persons with disabilities stating that: 1) is permitted to own and keep a common household pet in their dwelling units, in accordance with the Pet Policy for Elderly/Disabled Developments.

Pursuant to 24 C.F.R. 960 Subpart G, a resident of a public housing dwelling unit may own a common household pet in accordance with DHA’s Family Housing Pet Policy and dwelling lease.

Residents who have been approved to have a pet must enter into a Pet Policy with DHA, or the approval of the pet will be withdrawn. [24 CFR 960.707(b)(5); 24 CFR 5.315; 24 CFR 960.707(a)].

Chapter 11

COMMUNITY SERVICE AND ECONOMIC SELF-SUFFICIENCY PROGRAMS

[24 CFR 960.601(b), 24 CFR 960.603, 24 CFR 960.605, 24 CFR 960.607, 24 CFR 5.603(b), Notice PIH 2009-48]

In order to be eligible for continued occupancy of Public Housing, each adult family member must either: (1) contribute eight (8) hours per month of community service (not including political activities) within the community in which the public housing development is located, or (2) participate in an economic self-sufficiency program, unless they are exempt from this requirement pursuant to DHA’s Community Service Procedure.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self responsibility in the community. Community service is not employment and may not include political activities.

Economic self-sufficiency program is defined as any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

Chapter 12

TRANSFER POLICY

Residents will receive priority for transfers, over applicants, for vacancies in all public housing.

However, only the following types of transfers will be granted:

Administrative Transfers – These transfers include mandatory transfers, such as emergency and relocation transfers, as well as some resident initiated transfers.

Emergency – necessitated by an immediate, verifiable threat to life, health or safety of the resident or family members, such as unit uninhabitable due to fire, etc. Emergency transfers are mandatory for the tenant.

Relocation – transfers for relocation efforts by DHA will be given priority, after Emergency transfers, and include, but are not limited to, programmed units, modernization, demolition, and changing units to homeownership units. Seniority of tenancy with DHA will determine eligibility of remaining at the site because of relocation factors, i.e.: decrease of units, first move out/first move back in, etc.

- (a) Health – a reasonable accommodation is required for all Health transfer requests. The forms (Request for Accommodation and Health Providers Verification) can be printed off the internet. The 504 Coordinator must approve all requests for accommodations. (Examples may include: need an accessible unit, ground floor unit, etc.)
- (b) Non-Disabled – a transfer will be required when a non-disabled household is residing in an accessible unit and there is a disabled household in need of the accessible unit. 24 CFR 8.27(b).
- (c) Under-housed – household needs a larger unit. 24 CFR 960.257(a)(4)
- (d) Over-housed – household needs a smaller unit. 24 CFR 960.257(a)(4)

- 1. An Over-housed tenant with lease violation issues related to guests' behavior will receive a higher priority transfer.

Resident Requested Transfer – These transfers are initiated by the resident and approved in the sole and absolute discretion of DHA for the following reasons:

- (a) Employment – employment, education, or training is dependent upon the need to be closer to the appropriate location.
- (b) Upward mobility – transfer will be considered for residents who meet the basic transfer criteria and have the potential to be a participant in DHA's Homeowner Program.
- (c) Elderly-Designated – residents requesting transfers to building approved as designated for elderly must meet the basic transfer criteria and the age requirement of 62 years of age or older.
- (d) Other – for other extraordinary reasons, if recommended by Manager and Management Supervisor.

Note: DHA does not make "split family" transfers.

The following conditions shall exist before a Resident Requested Transfer will be granted:

Resident and all family members:

- 1) Have not engaged in criminal activity that threatens the health and safety of residents or staff; and/or

- 2) Have not engaged in behavior that disturbs other tenants' peaceful enjoyment of the premises; and/or
- 3) Have not behaved in an abusive or threatening manner toward neighbors and/or Housing Authority staff; and/or
- 4) Do not owe back rent or other charges, not including repayment agreements, or have a pattern of late payment; and/or
- 5) Meet reasonable housekeeping standards; and/or
- 6) Can get utilities turned on in the name of head of household; and/or
- 7) Must have been a DHA resident for at least one year (transfers for reasonable accommodation or health and safety excluded).

Exceptions to the criteria may be made for emergency transfers, health related transfers, or when it is DHA's best interest (e.g., a single person is living alone in a three bedroom unit and does not want to move) to require the transfer. The exception to the criteria will be made by Housing Management taking into account the recommendation of the Manager.

Transfers may be approved for other extraordinary reasons if recommended by Managers and approved by Housing Management.

In order to determine the priority in which transfer requests will be considered, the criteria set forth above are given different numerical weights. Residents who meet the transfer criteria and are placed on the waiting list must continue to meet the criteria while waiting for the transfer. Failure to maintain the eligibility for a transfer will result in removal of the resident from the transfer waiting list until they meet the required criteria.

Transfers between Conventional Public Housing and buildings designated as Multifamily Housing will only be approved to accommodate health/special needs. However, the resident must meet the eligibility criteria for the Project Based Section 8 program and the Low Income Housing Tax Credit ("LIHTC") program.

DHA will maintain a centralized transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.

Residents will receive one offer of a transfer.

When the transfer is required by DHA, the refusal of that offer without good cause will result in lease termination. Refusals due to location alone do not qualify for this good cause exemption.

When the transfer has been requested by the resident, the refusal of that offer without good cause will result in the removal of the family from the transfer list. In such cases, the family must wait one year to reapply for another transfer.

Resident transfers are an extension of occupancy by the Resident under prior lease or leases with DHA, any obligations owed by Resident to DHA may be enforced against Resident as if the same had occurred hereunder.

DHA's procedures related to transfers can be found at DHA's Transfer Procedure Manual.

The provisions listed above are to be used as a guide to ensure fair and impartial means of assigning units for transfers. This policy does not create a property right or any other type of right for a resident to transfer or refuse to transfer.

Chapter 13

LEASE TERMINATIONS

Either party to the dwelling lease agreement may terminate the lease in accordance with the terms of the lease. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing. These terminations are further explained in the lease.

Chapter 14

GRIEVANCES AND APPEALS

PART I: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING APPLICANTS

When DHA makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing.

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program, but is not yet a resident in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR 960.208(a)]. Applicants to public housing are not entitled to the same hearing process afforded residents under the DHA grievance procedures [24 CFR 966.53(a)].

Informal hearings provide applicants the opportunity to review the reasons for denial of admission and to present evidence to refute the grounds for denial.

- 1) DHA will send prompt written notice to an applicant for Conventional Public Housing notifying him/her that he/she has been denied housing and the reason(s) supporting the determination of ineligibility. The notice will also advise the applicant of his/her right to an informal hearing.
- 2) Whenever a written notice of denial or cancellation is given to an applicant, that notice must state all grounds upon which DHA will rely for the denial or cancellation. If the notice of cancellation is based on an alleged outstanding debt to DHA, the notice will state where the debt was incurred and the total amount claimed as due.

- 3) The applicant must request the informal hearing, in writing, to DHA within 10 business days of the date the application was canceled. DHA will then schedule an informal hearing no later than sixty (60) calendar days from the date DHA received the applicant's written request. If the applicant does not request a hearing in accordance with this paragraph, then DHA's disposition of the matter shall become final. However, failure to request a hearing shall not constitute a waiver by the applicant of his/her right thereafter to contest DHA's disposition of the matter in an appropriate judicial proceeding.
- 4) Upon the written request of the applicant or DHA, the hearing may be postponed and rescheduled to the next available regularly scheduled hearing date. This request for postponement must be submitted at least twenty-four (24) hours prior to the scheduled hearing. A hearing may be postponed once. If the applicant fails to appear at the second scheduled hearing, DHA's disposition of the matter will become final.
- 5) The hearing will be conducted by a member of DHA staff (hereafter referred to as the "Hearing Officer") who did not make the initial decision to cancel or deny the application or a subordinate of that person. During the hearing, DHA's and the applicant's witnesses and potential witnesses in the matter may be present, and those persons shall be permitted to observe the entire hearing. The applicant will be afforded a fair hearing and provided the basic safeguards of due process, which shall include:
 - (a) The opportunity to examine before the hearing any DHA documents, including records and regulations that are directly relevant to the hearing. The applicant shall be provided with a copy of any such document at the applicant's expense, at a rate of \$0.25 per page or the actual cost, whichever is greater. The documents shall not be removed from DHA's premises. Any document not made available, after the request of the applicant has been received, will not be relied on by DHA at the hearing.
 - (b) The right to be represented by counsel or other person selected as a representative.
 - (c) The right to a private hearing unless the applicant requests a public hearing.
 - (d) The right to present evidence and arguments to controvert evidence relied on by DHA and to confront and cross-examine all witnesses on whose testimony or information DHA relies.
 - (e) A decision based solely and exclusively upon the facts presented at the hearing.
 - (f) The Hearing Officer will consider only those issues presented in the original notice, and will not consider new issues or evidence of which the applicant had no notice.
 - (g) No recording of the informal hearing proceeding is allowed unless requested twenty-four (24) hours in advance of the scheduled informal hearing. DHA has the right to record the informal hearing.
- 6) The Hearing Officer will give a final written decision to the applicant. The decision will be mailed to the applicant at the address the applicant has on file with DHA within ten (10) business days after completion of the hearing. In rendering a decision, DHA will evaluate the following matters:

- (a) Whether or not the grounds for denial were stated factually in the notice;
 - (b) The validity of grounds for denial of admission. If the grounds for denial are not specified in the regulations or in DHA policy, then the decision to deny assistance will be overturned.
 - (c) The validity of the evidence. The Hearing Officer will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, the Hearing Officer will uphold the decision to deny admission.
- 7) If the applicant or DHA fails to appear at the scheduled hearing, the Hearing Officer may determine that the party has waived his/her right to a hearing and may make a determination adverse to the absent party. Both DHA and the applicant shall be notified of the determination by the Hearing Officer.
 - 8) The hearing will be conducted informally by the Hearing Officer. The Hearing Officer shall require DHA, the applicant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the Hearing Officer to obtain order may result in expulsion from the proceedings or in a decision adverse to the interests of the disorderly party, and granting or denial of the relief sought, as appropriate.
 - 9) A Hearing Officer may re-open a canceled application for Conventional Public Housing program if the applicant provides the necessary requested information or resolves any dispute concerning an alleged debt owed to DHA or any other agency.
 - 10) If the informal hearing decision overturns the denial, processing for admission will resume.

PART II: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

DHA has a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any DHA action or failure to act involving the lease or DHA policies which adversely affect their rights, duties, welfare, or status. [24 CFR 966.51; 24 CFR 966.52; 24 CFR 966.53; 24 CFR 966.54; 24 CFR 966.55; 24 CFR 966.56; 24 CFR 966.57]

Grievances could potentially address most aspects of a DHA's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual resident issues relating to DHA. It is not applicable to disputes between residents not involving DHA. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of DHA.

HUD has issued a due process determination, and as a result, DHA will exclude from DHA's Grievance Procedure any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of DHA
- Any violent or drug-related criminal activity on or off such premises

- Any criminal activity that resulted in felony conviction of a household member.

For the procedures governing this process please see DHA's Grievance Procedure.

Chapter 15

PROGRAM INTEGRITY

PART I: PREVENTING ERRORS AND PROGRAM ABUSE

DHA anticipates that the vast majority of families and DHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that DHA's program is administered effectively and according to the highest ethical and legal standards, DHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

DHA is required to use the Enterprise Income Verification (EIV) system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. DHA is further required to:

- Provide applicants and residents with form HUD-52675, "Debts Owed to PHAs and Terminations"
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

DHA will provide each applicant and resident with a copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

DHA will provide each applicant and resident with a copy of "What You Should Know about EIV". In addition, DHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

DHA will routinely provide guidance to residents as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

DHA staff will be required to review and explain the contents of all HUD- and DHA-required forms prior to requesting family member signatures.

DHA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key DHA forms and form letters that request information from a family member.

DHA will provide each DHA employee with the necessary training on program rules.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

15-I.A. DETECTING ERRORS AND PROGRAM ABUSE

Quality Control and Analysis of Data

DHA will employ a variety of methods to detect errors and program abuse, including:

DHA routinely will use EIV and other non-HUD sources of up-front income verification. This includes the Work Number and any other private or public databases available to DHA.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

Individual Reporting of Possible Errors and Program Abuse

DHA will encourage staff, residents, and the public to report possible program abuse.

15-I.B. INVESTIGATING ERRORS AND PROGRAM ABUSE

DHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for DHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

DHA will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

Consent to Release of Information [24 CFR 960.259]

DHA may investigate possible instances of error or abuse using all available DHA and public records. If necessary, DHA will require families to sign consent forms for the release of additional information.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether DHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, DHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

DHA will inform the relevant party in writing of its findings and remedies. The family will receive notice of the findings and will be offered grievance rights.

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

An under- or overpayment includes an incorrect tenant rent payment by the family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, DHA must promptly correct the tenant rent prospectively.

Increases in the tenant rent will be implemented on the first of the month following a written 30 day notice.

Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse DHA or DHA is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse.

15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows DHA to use incorrect information provided by a third party.

Family Reimbursement to DHA

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. DHA may, but is not required to, offer the family a repayment agreement. If the family fails to repay the amount owed, DHA will terminate the family's lease.

Prohibited Actions

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to DHA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to DHA [24 CFR 960.259(a)(4)].
- Commit fraud, or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

Any of the following will be considered evidence of family program abuse:

- Offering bribes or illegal gratuities to the DHA Board of Commissioners, employees, contractors, or other DHA representatives.
- Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to DHA on the family's behalf.
- Use of a false name or the use of falsified, forged, or altered documents.
- Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition).
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income).
- Admission of program abuse by a family member.

Penalties for Program Abuse

In the case of program abuse caused by a family DHA may, at its discretion, impose any of the following remedies.

- DHA may require the family to repay any amounts owed to the program.
- DHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit.
- DHA may deny admission or terminate the family's lease.
- DHA may refer the family for state or federal criminal prosecution.

15-II.C. DHA-CAUSED ERRORS OR PROGRAM ABUSE

DHA-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

Repayment to DHA

The family is not required to repay an underpayment of rent if the error or program abuse is caused by DHA staff.

DHA Reimbursement to Family

DHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error.

15-II.D. CRIMINAL PROSECUTION

When DHA determines that program abuse by a family has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, DHA will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

Chapter 16

PROGRAM ADMINISTRATION

PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]

16-I.A UTILITY ALLOWANCES [24 CFR 965.503, 24 CFR 965.505, 24 CFR 965.507]

DHA has established separate allowances for each utility and for each category of dwelling units.

DHA establishes utility allowances for each dwelling unit category and unit size to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances.

Utilities include gas, electricity, water, sewerage, and solid waste disposal for a dwelling unit.

Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

DHA reviews annually the basis on which utility allowances have been established and may revise the allowances if necessary in order to adhere to the standards for establishing utility allowances.

16-I.C. EXCESS UTILITY CHARGES FOR DHA-FURNISHED UTILITIES [24 CFR 965.506]

For dwelling units subject to allowances for DHA-furnished utilities where check meters have been installed, DHA must establish excess utility charges for utility consumption in excess of the allowances. Excess utility charges may be computed on a straight per unit of purchase basis or for stated blocks of excess consumption, and must be based on DHA's average utility rate. The basis for calculating the excess utility charges must be described in DHA's schedule of allowances.

16-I.E. REASONABLE ACCOMMODATION [24 CFR 965.508]

On request from a family that includes a disabled or elderly person, DHA must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family [PH Occ GB, p. 172].

PART II: ESTABLISHING FLAT RENTS AND PUBLIC HOUSING MAXIMUM RENTS

16-II.A. FLAT RENTS [24 CFR 960.253(b)]

Establishing Flat Rents

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Flat rents for public housing units are based on the market rent charged for comparable units in the private unassisted rental market. The flat rent should be equal to the estimated rent for which DHA could promptly lease the public housing unit after preparation for occupancy.

DHA must use at least 80% of Fair Market Rent as determined by HUD to determine flat rents.

Review of Flat Rents

DHA will review flat rents and adjust them as necessary to ensure that flat rents continue to mirror market rent values. [24 CFR 960.253(b)].

Posting of Flat Rents

DHA will publicly post the schedule of flat rents in a conspicuous manner in the applicable DHA or community office.

Documentation of Flat Rents [24 CFR 960.253(b)(5)]

DHA must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by DHA in accordance with this method.

16-II.C. PUBLIC HOUSING MAXIMUM RENTS [24 CFR 5.500]

Public housing maximum rents are needed to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status.

DHA is prohibited from making financial assistance available to persons who are not citizens or nationals of the United States, and to those who do not have eligible immigration status. Therefore, in order to assist mixed families, DHA must prorate assistance. Public housing maximum rents are needed in order to calculate the tenant rent for a mixed family.

The public housing maximum rent is based on the Flat Rent schedule and if the proration exceeds the Flat Rent amount, DHA will require the mixed family to pay the higher amount.

PART III: FAMILY DEBTS TO DHA

16-III.A. REPAYMENT POLICY

Family Debts to DHA

Any amount owed to DHA by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, DHA will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, DHA may terminate the family's tenancy. DHA will also pursue other modes of collection.

General Repayment Agreement Guidelines [24 CFR 982.552(c)(1)(vii)].

Payment Thresholds

For unreported income and maintenance charges which result in amounts owed to DHA less than \$2,500 DHA will require a minimum monthly payment of \$25.00 per month.

For unreported income and maintenance charges which result in amounts owed to DHA in excess of \$2,500 and less than \$5,000, DHA will require a minimum monthly payment of \$50.00 per month.

For unreported income and maintenance charges which results in amounts owed to DHA in excess of \$5,000 DHA and less than \$10,000, will require a minimum monthly payment of \$100.00 per month.

For unreported income which results in amounts owed to DHA in excess of \$10,000 DHA may report the unreported income to HUD's Office of Inspector General ("OIG") and will require a minimum monthly payment of \$200.00 per month.

If a family can provide evidence satisfactory to DHA that the monthly payment amount required would impose an undue hardship, DHA may, in its sole discretion, require a lower monthly payment amount.

If the family's income increases or decreases during the term of a repayment agreement, either DHA or the family may request that the monthly payment amount be adjusted accordingly.

Unreported Income: DHA will only enter into one repayment agreement with the family over the term of tenancy for unreported income. DHA may elect not to enter a repayment agreement if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

Maintenance Charges: DHA will enter into one repayment agreement with the family over the term of tenancy for maintenance. DHA may, in its sole discretion, offer the family more than one repayment agreement related to maintenance. In these circumstances the family may not have multiple active repayment agreements.

Utilities and Late Charges: DHA will not enter into repayment agreement related to these charges.

Lump Sum Payments: Lump Sum Payments (unemployment, worker's compensation, child support, TANF, etc.) must be reported to DHA timely and will be considered income regarding the 30 percent calculation. Lump sum VA and SSI payments are specifically excluded. If reported timely these lump sum payments will not be considered unreported income and the family will be eligible for a repayment agreement. There is no limit on repayment agreements for these types of payments.

Execution of the Agreement

Any repayment agreement between DHA and a family must be signed and dated by DHA and by the head of household and spouse/cohead (if applicable).

PART V: VIOLENCE AGAINST WOMEN ACT (VAWA)

The Violence against Women Act (VAWA) provides special protections for victims of domestic violence, dating violence, and stalking who are applying for or receiving assistance under the public housing program. For a more in depth explanation please review DHA's Violence Against Women Act Procedure which is available upon request from DHA Staff and is available on DHA's Website.

Colorado Law. Landlords are obligated to comply with State Laws that provide protection for victims of domestic violence. Specifically, C.R.S. § 38-12-402 and its revisions, if any.

PART VI: DECONCENTRATION POLICY/CONVENTIONAL PUBLIC HOUSING

It is the policy of DHA to provide for the deconcentration of poverty and encourage income mixing by bringing higher income families into lower income developments and lower income families into higher income developments, pursuant to current HUD regulations, and any subsequent amendments. Toward this end, DHA has instituted local preferences and will continue to affirmatively market our housing to all eligible income groups. Lower income residents will

not be steered toward lower income developments and higher income people will not be steered toward higher income developments.

Prior to the beginning of each DHA fiscal year, staff will analyze the income levels of families residing in each of our developments. Based on this analysis, and the then current HUD regulations, DHA will determine which, if any, DHA developments are above, within, or below the DHA Established Income Range (EIR). Any developments above the EIR will be designated as high-income. Any developments with incomes below the EIR will be designated as low-income. Based on this analysis, DHA will determine the marketing strategies and whether or not additional incentives will have to be developed and implemented to deconcentrate poverty.

DHA may, in its sole discretion, utilize one or more of the following strategies to encourage applicant families whose income classification would help to meet the deconcentration goals of a particular development: 1) incentives designed to encourage families with incomes below the EIR to accept units in developments with incomes above the EIR, and vice versa; 2) target investments and capital improvements; and 3) continue use of working family preferences. These strategies may be used at different times, or under different conditions, but will always be used in a consistent and non-discriminatory manner. Deconcentration incentives may apply to Mixed Income Developments (i.e. Villages at Curtis Park, Benedict Park Place and Mariposa) applicant families at the sole discretion of the Owner.