

**PART 913—DEFINITION OF INCOME,
INCOME LIMITS, RENT AND REEX-
AMINATION OF FAMILY INCOME
FOR THE PUBLIC HOUSING AND
INDIAN HOUSING PROGRAMS**

Sec.

- 913.101 Purpose and applicability.
- 913.102 Definitions.
- 913.103 Overall income eligibility for admission.
- 913.104 Admission to units available before October 1, 1981.
- 913.105 Admission to units available on or after October 1, 1981.
- 913.106 Annual income.
- 913.107 Total tenant payment.
- 913.108 Utility reimbursement.
- 913.109 Initial determination, verification, and reexamination of family income and composition.
- 913.110 Transition provisions.

AUTHORITY: Secs. 3, 6, and 16, U.S. Housing Act of 1937 (42 U.S.C. 1437a, 1437d, 1437n); sec. 7(d), Department of Housing

and Urban Development Act (42 U.S.C. 2634(d)).

SOURCE: 49 FR 21485, May 31, 1984, unless otherwise noted.

§ 913.101 Purpose and applicability.

This part establishes definitions, policies and procedures related to income limits and the determination of eligibility, income and rent for applicants and tenants in Public Housing and Indian Housing, including the Turnkey III Homeownership Opportunities and the Mutual Help Homeownership Opportunities Programs; and applicants and tenants assisted under sections 10(c) and 23 of the 1937 Act as in effect before amendment by the Housing and Community Development Act of 1974 (42 U.S.C. 1410 and 1421b (1970 ed.)). (See 24 CFR Part 813 for the analogous rule applicable to the Section 8 Housing Assistance Payments and related Programs.)

[49 FR 21485, May 31, 1984, as amended at 51 FR 9787, Mar. 21, 1986]

EFFECTIVE DATE NOTE: At 51 FR 9787, Mar. 21, 1986, § 913.101 was amended by adding the phrase “; and applicants and tenants assisted under sections 10(c) and 23 of the 1937 Act as in effect before amendment by the Housing and Community Development Act of 1974 (42 U.S.C. 1410 and 1421b (1970 ed.))” to the end of the first sentence, effective May 5, 1986.

§ 913.102 Definitions

Adjusted Income. Annual Income less the following allowances, determined in accordance with HUD instructions:

- (a) \$480 for each Dependent;
- (b) \$400 for any Elderly Family;
- (c) For any Family that is not an Elderly Family but has a Handicapped or Disabled member other than the head of household or spouse, Handicapped Assistance Expenses in excess of three percent of Annual Income, but this allowance may not exceed the employment income received by Family members who are 18 years of age or older as a result of the assistance to the Handicapped or Disabled Person;
- (d) For any Elderly Family.

(1) That has no Handicapped Assistance Expenses, an allowance for Medical Expenses equal to the amount by

which the Medical Expenses exceed three percent of Annual Income;

(2) That has Handicapped Assistance Expenses greater than or equal to three percent of Annual Income, an allowance for Handicapped Assistance Expenses computed in accordance with paragraph (c) of this section, plus an allowance for Medical Expenses that is equal to the Family's Medical Expenses;

(3) That has Handicapped Assistance Expenses that are less than three percent of Annual Income, an allowance for combined Handicapped Assistance Expenses and Medical Expenses that is equal to the amount by which the sum of these expenses exceeds three percent of Annual Income; and

(e) Child Care Expenses.

Annual Income. See § 913.106.

Child care expenses. Amounts anticipated to be paid by the Family for the care of children under 13 years of age during the period for which Annual Income is computed, but only where such care is necessary to enable a Family member to be gainfully employed or to further his or her education. The amount deducted shall reflect reasonable charges for child care, and, in the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of income received from such employment.

Dependent. A member of the Family household (excluding foster children) other than the Family head or spouse, who is under 18 years of age or is a Disabled Person or Handicapped Person, or is a Full-time Student.

Disabled person. A person under a disability as defined in Section 223 of the Social Security Act (42 U.S.C. 423) or in Section 102 of the Developmental Disabilities Services Facilities Construction Amendments of 1970 (42 U.S.C. 2691(1)).

Elderly Family. A Family whose head or spouse (or sole member) is a person who is an Elderly, Disabled or Handicapped Person. It may include two or more Elderly, Disabled or Handicapped Persons living together, or one or more such persons living with one or more persons who is deter-

mined to be essential to their care or well being.

Elderly Person. A person who is at least 62 years of age.

Family. See definition in part 912 of this chapter.

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

Handicapped assistance expenses. Reasonable expenses that are anticipated, during the period for which Annual Income is computed, for attendant care and auxiliary apparatus for a Handicapped or Disabled Family member and that are necessary to enable a Family member (including the Handicapped or Disabled member) to be employed, provided that the expenses are neither paid to a member of the Family nor reimbursed by an outside source.

Handicapped person. A person having a physical or mental impairment that (a) is expected to be of long-continued and indefinite duration, (b) substantially impedes his or her ability to live independently, and (c) is of such a nature that such ability could be improved by more suitable housing conditions.

Indian Housing Authority (IHA). As defined in Part 905.

Lower Income Family. A Family whose Annual Income does not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low family incomes.

Medical expenses. Those 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.

Monthly Adjusted Income. One twelfth of Adjusted Income.

Monthly Income. One twelfth of Annual Income.

Net Family Assets. Value of equity in real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded. (In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the Family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining Annual Income under §913.106.) In determining Net Family Assets, PHAs shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Public Housing Agency (PHA). Any State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) that is authorized to engage in or assist in the development or operation of housing for lower income families. As used in this Part, PHA includes an Indian Housing Agency.

Tenant Rent. The amount payable monthly by the Family as rent to the PHA. Where all utilities (except telephone) and other essential housing services are supplied by the PHA, Tenant Rent equals Total Tenant Payment. Where some or all utilities (except telephone) and other essential housing services are not supplied by

the PHA and the cost thereof is not included in the amount paid as rent, Tenant Rent equals Total Tenant Payment less the Utility Allowance.

Total Tenant Payment. The monthly amount calculated under §913.107. Total Tenant Payment does not include charges for excess utility consumption or other miscellaneous charges (see §966.4 of this chapter).

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the Tenant Rent but is the responsibility of the Family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD, under Part 965 of this chapter, of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. The amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the Family occupying the unit.

Very Low-Income Family. A Lower Income Family whose Annual Income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes.

Welfare Assistance. Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, State or local governments.

(49 FR 21485, May 21, 1984; 49 FR 26719, June 29, 1984, as amended at 50 FR 25951, June 24, 1985; 50 FR 39098, Sept. 27, 1985)

§ 913.103 Overall income eligibility for admission.

No Family other than a Lower Income Family shall be eligible for admission to a program covered by this part.

§ 912.104 Admission to units available before October 1, 1981.

(a) *General.* Section 16(a) of the U.S. Housing Act of 1937 (42 U.S.C. 1437n) ("The 1937 Act") provides that not more than 25 percent of the dwelling units that were available for occupancy under public housing Annual Contributions Contracts and Section 8 Housing Assistance Payments ("HAP") Contracts taking effect before October 1, 1981 and that are leased on or after that date shall be available for leasing by Lower Income Families other than Very Low-Income Families. HUD reserves the right to limit the admission of Lower Income Families other than Very Low-Income Families to these units.

(b) *Reporting.* PHAs shall comply with HUD-prescribed reporting requirements that will permit HUD to maintain reasonably current data as to (1) the number of dwelling units assisted under the 1937 Act in the Public Housing and Indian Housing Programs in projects for which initial occupancy began before October 1, 1981 and (2) the number of Families occupying such units that were admitted to them on or after July 1, 1984 and were not Very Low-Income Families when admitted.

(Approved by the Office of Management and Budget under control number 2602-0204)

§ 912.105 Admission to units available on or after October 1, 1981.

(a) *General.* Section 16(b) of the 1937 Act (42 U.S.C. 1437n) provides that not more than five percent of the dwelling units that initially become available for occupancy under public housing Annual Contributions Contracts and Section 8 HAP Contracts on or after October 1, 1981 shall be available for leasing by Lower Income Families other than Very Low-Income Families. No Lower Income Family other than a Very Low-Income Family shall, after July 1, 1984, be approved for admission to any unit in a Public Housing or Indian Housing project for which initial occupancy began on or after October 1, 1981, except with the prior approval of HUD.

(b) *Request for exception.* A request by a PHA for approval of admission of Lower Income Families other than Very Low-Income Families to units described in paragraph (a) of this section must state the basis for requesting the exception and provide supporting data. Bases for exceptions that may be considered by HUD include the following:

(1) Need for admission of a broader range of tenants to obtain full occupancy;

(2) Local commitment to attaining occupancy by Families with a broad range of incomes. An application citing this basis should be supported by evidence that the PHA is pursuing this goal throughout its housing program in the community;

(3) Need for higher incomes to sustain homeownership eligibility in a homeownership project; and

(4) Need to avoid displacing Lower Income Families from a project acquired by the PHA for rehabilitation.

(c) *Action on request for exception.* Whether to grant any request for exception is a matter committed by law to HUD's sole discretion, and no implication is intended to be created that the Department will seek to grant approvals up to the maximum limits permitted by statute, nor is any presumption of entitlement to an exception created by the specification of certain grounds for exception that HUD may consider. HUD will review exceptions granted to PHAs at regular intervals. HUD may withdraw permission to exercise these exceptions for program applicants at any time exceptions are not being used or after a periodic review, based on the findings of the review.

(d) *Reporting.* PHAs shall comply with HUD-prescribed reporting requirements that will permit HUD to maintain reasonably current data as to (1) the number of dwelling units assisted under the 1937 Act in the Public Housing and Indian Housing Programs in projects for which initial occupancy began on or after October 1, 1981 and (2) the number of Families occupying such units that were admitted to them on or after July 1, 1984 and were not Very Low-Income Families when admitted.

(Approved by the Office of Management and Budget under control number 2502-0204)

[49 FR 21485, May 21, 1984; 49 FR 28719, June 29, 1984]

§ 913.106 Annual income.

(a) Annual Income is the anticipated total income from all sources received by the Family head and spouse (even if temporarily absent) and by each additional member of the Family, including all net income derived from assets, for the 12 month period following the effective date of initial determination or reexamination of income, exclusive of income that is temporary, nonrecurring or sporadic as defined in paragraph (c) of this section, and exclusive of certain other types of income specified in paragraph (d) of this section.

(b) Annual Income includes, but is not limited to:

(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;

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

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. All allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the Family. Where the Family has Net Family Assets in

excess of excess of \$5,000, Annual Income shall include the greater of the actual income derived from all Net Family Assets or a percentage of the value of such Assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment;

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (but see paragraph (c)(3) of this section);

(6) Welfare Assistance. If the Welfare Assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the Welfare Assistance agency in accordance with the actual cost of shelter and utilities, the amount of Welfare Assistance income to be included as income shall consist of:

(i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities, plus

(ii) The maximum amount that the Welfare Assistance agency could in fact allow the Family for shelter and utilities. If the Family's Welfare Assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph (b)(6)(ii) shall be the amount resulting from one application of the percentage;

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the Family, spouse, or other Family member whose dependents are residing in the unit (but see paragraph (c)(5) of this section); and

(9) Any earned income tax credit to the extent it exceeds income tax liability:

(c) Annual Income does not include such temporary, non-recurring or sporadic income as the following:

(1) Casual, sporadic or irregular gifts;

(2) Amounts that are specifically for or in reimbursement of the cost of Medical Expenses;

(3) Lump-sum additions to Family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (but see paragraph (b)(5) of this section);

(4) Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the Government to a veteran, for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships, or payments to veterans, not used for the above purposes that are available for subsistence are to be included in income; and

(5) The hazardous duty pay to a Family member in the Armed Forces away from home and exposed to hostile fire.

(d) Annual Income does not include:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children;

(3) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the 1937 Act. The following types of income are subject to such exclusion:

(i) Relocation payments made under title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4621-4638);

(ii) The value of the allotment provided to an eligible household for coupons under the Food Stamp Act of 1977 (7 U.S.C. 2011-2029);

(iii) Payments to volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5044(g), 5058);

(iv) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1628(a));

(v) Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

(vi) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8621-8629);

(vii) Payments received from the Job Training Partnership Act (29 U.S.C. 1552(b));

(viii) Income derived from the disposition of funds of the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-2504; and

(ix) The first \$2,000.00 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims (25 U.S.C. 1407-1408), or from funds held in trust for an Indian Tribe by the Secretary of Interior (25 U.S.C. 117).

(e) If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period may be annualized, subject to a redetermination at the end of the shorter period.

(49 FR 21485, May 21, 1984, as amended at 50 FR 25951, June 24, 1985; 50 FR 39098, Sept. 27, 1985)

§ 912.107 Total tenant payment.

(a) Total tenant payment for families whose initial lease is effective on or after August 1, 1982. Total Tenant Payment shall be the highest of the following, rounded to the nearest dollar:

(1) 30 percent of Monthly Adjusted Income;

(2) 10 percent of Monthly Income; or

(3) If the Family receives Welfare Assistance from a public agency and a part of such payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such agency to meet the Family's housing costs, the monthly portion of such payments which is so designated. If the Family's Welfare Assistance is ratably reduced from the

standard of need by applying a percentage, the amount calculated under this paragraph (a)(3) shall be the amount resulting from one application of the percentage.

(b) *Total tenant payment for families whose initial lease was effective before August 1, 1982.* Total Tenant Payment shall be calculated in accordance with paragraph (a) of this section, except that instead of 30 percent, the percentage applied to Monthly Adjusted Income shall be in accord with the following table:

Effective date of reexamination	Percentage
Aug. 1, 1982-Sept. 30, 1982	28
Oct. 1, 1982-Sept. 30, 1983	27
Oct. 1, 1983-Sept. 30, 1984	28
Oct. 1, 1984-Sept. 30, 1985	28
Oct. 1, 1985 and after	30

(c) *Special conditions.* (1) For purposes of this section, a Family is considered to be a Family whose initial lease was effective before August 1, 1982, only if it satisfies both of the following conditions:

(i) The Family resided on July 31, 1982 in a unit under lease with assistance under the Section 8, Public Housing or Indian Housing Program, or the Family resided in a unit in a HUD-owned project; and

(ii) The Family's assistance has been continuous thereafter in the same project or same program of the PHA, or in the case of an involuntary move, in units in any of the PHA's programs.

(2) So long as a Family whose initial lease was effective before August 1, 1982 continues to reside in the same project or same program of the PHA, or, in the case of an involuntary move, in units in any of the PHA's programs, its Total Tenant Payment shall not be increased by more than 10 percent during any 12-month period as a result of: (i) Application of the percentages in paragraph (b) of this section; and (ii) application of the changes in the definitions contained in §§ 913.102 and 913.106 from definitions of comparable terms in regulations in effect immediately before July 1, 1984.

(3) So long as a Family whose initial lease was effective on or after August

1, 1982, but which was in occupancy on June 30, 1984, continues to reside in the same project or same program of the PHA, or, in the case of an involuntary move, in units of any of the PHA's programs, its Total Tenant Payment shall not be increased by more than 10 percent during any 12-month period as a result of application of the changes in the definitions contained in §§ 913.102 and 913.106 from definitions of comparable terms in regulations in effect immediately before July 1, 1984.

(4) The limitations contained in paragraphs (c) (2) and (3) above do not apply to portions of increases in Total Tenant Payment that are attributable to increases in income or changes in Family composition or circumstances unrelated to the factors referred to in paragraphs (c) (2) and (3).

(5) The limitations contained in paragraphs (c) (2) and (3) above do not apply to Families subject to paragraph (a)(3) of this section when the welfare agency includes as the housing component of the Family's grant an amount equal to the Total Tenant Payment, without reduction.

(6) In order to facilitate administration of the limitations provided in paragraphs (c) (2) and (3) of this section, upon any regular or interim reexamination of a Family that was in occupancy on June 30, 1984, the PHA shall continue to collect and verify information that would have been taken into account in calculating Total Family Income and Family Income, as defined in regulations in effect immediately before July 1, 1984, as if such regulations were in effect at the date of such examination.

(7) The limitations prescribed in paragraphs (c) (2) and (3) of this section shall be applied in accordance with procedures prescribed by HUD.

(d) *Mutual help homeownership projects.* Paragraphs (a) and (b) of this section shall not apply to Mutual Help Homeownership projects (see § 905.416 of this chapter).

(Approved by the Office of Management and Budget under control number 2502-0304)

(48 FR 21422, May 21, 1984; 48 FR 28719, June 29, 1984; 49 FR 37576, Sept. 25, 1984)

§ 913.106 Utility reimbursement.

Where applicable, the Utility Reimbursement shall be paid to the Family in the manner provided in the pertinent program regulation (Part 904, 905 or 960 of this chapter). If the Family and the utility company consent, a PHA may pay the Utility Reimbursement jointly to the Family and the utility company, or directly to the utility company.

§ 913.109 Initial determination, verification, and reexamination of family income and composition.

(a) *Responsibility for initial determination and reexamination.* The PHA shall be responsible for determination of eligibility for admission, for determination of Annual Income, Adjusted Income and Total Tenant Payment, and for reexamination of Family income and composition at least annually, as provided in pertinent regulations (Part 960, Subpart B). As used in this part, the "effective date" of an examination or reexamination refers to (i) in the case of an examination for admission, the effective date of initial occupancy, and (ii) in the case of a reexamination of an existing tenant, the effective date of the redetermined Total Tenant Payment.

(b) *Verification.* As a condition of admission to, or continued occupancy of, any assisted unit under the Public Housing or Indian Housing Program, the PHA shall require the Family head and other such Family members as it designates to execute a HUD-approved release and consent authorizing any depository or private source of income, or any Federal, State or local agency, to furnish or release to the PHA and to HUD such information as the PHA or HUD determines to be necessary. The PHA shall also require the Family to submit directly documentation determined to be necessary. Information or documentation shall be determined to be necessary if it is required for purposes of determining or auditing a Family's eligibility to receive housing assistance, for determining the Family's Adjusted Income or Tenant Rent, for verifying related information, or for monitoring compliance with equal opportunity require-

ments. The use of disclosure of information obtained from a Family or from another source pursuant to this release and consent shall be limited to purposes directly connected with administration of this part or applying for assistance.

(Approved by the Office of Management and Budget under control number 2502-0204)

(49 FR 21485, May 21, 1984; 49 FR 26719, June 29, 1984; 49 FR 37576, Sept. 25, 1984)

§ 913.110 Transition provisions.

(a) *Delayed implementation for rent calculations.* This part shall be effective on July 1, 1984. However, applicability of the definitions of Annual Income and Adjusted Income contained in this part shall be delayed until October 1, 1984, due to the need for distribution of instructions and forms, instruction of PHA staffs, and similar administrative adjustments.

(b) *Examinations and reexaminations before October 1, 1984.* In the case of (1) any current tenant whose regularly scheduled reexamination is conducted on or after July 1, 1984 and before October 1, 1984, (2) current tenants for whom interim reexaminations are conducted during such period, and (3) applicants for admission whose initial examinations are conducted during such period, the PHA shall conduct the examination or reexamination as scheduled and determine the Family's rent in accordance with regulations and procedures in effect immediately before July 1, 1984 (including the percentage to be applied to adjusted income under § 913.107 based on the effective date of the examination or reexamination). For purposes of this section, an examination or reexamination will be considered to be "conducted" at the time a PHA, based on its regular practice, begins scheduling and verifying the submission of data by an applicant or tenant, regardless of the "effective date" of the examination or reexamination (see § 913.109(a)).

(c) *Admissions.* On or after July 1, 1984, and before October 1, 1984, for purposes of application of §§ 913.103 and 913.105, a Family will be determined to be a Lower-Income Family or a Very Low-Income Family on the

basis of a determination of income for eligibility made in accordance with regulations and procedures in effect immediately before July 1, 1984. The admission of any Family on such basis before October 1, 1984, shall not be affected by a recalculation of income for eligibility made pursuant to this part on or after October 1, 1984.

(d) *Admissions and reexaminations on or after October 1, 1984.* All regular or interim reexaminations, or examinations for admission, conducted on or after October 1, 1984, and determinations of Annual Income, Adjusted Income, Total Tenant Payment and Tenant Rent based thereon, shall be made in accordance with the requirements of this part.

(e) *Optional interim reexamination.* Each PHA shall have the right, at its discretion, to require any Family in occupancy at October 1, 1984, to undergo an interim reexamination, and determination of Annual Income, Adjusted Income, Total Tenant Payment, and Tenant Rent based thereon, in accordance with the requirements of this part, at any time after October 1, 1984, and before the next scheduled regular reexamination for such Family.

(f) *Calculation of retroactive adjustment.* For all Families other than those whose examination for admission was conducted on or after October 1, 1984, in accordance with this part, at the time of the first regular or interim reexamination conducted after October 1, 1984, the PHA shall make an additional calculation with respect to the period between October 1, 1984 and the effective date of such reexamination. An adjusted tenant rental payment shall be calculated for such period on the basis of—

(1) The Total Family Income determined for such period in accordance with regulations and procedures in effect immediately before July 1, 1984;

(2) The Dependent and Elderly deductions prescribed by § 913.102;

(3) Estimated Medical Expenses taken into account in the calculation of Annual Income After Allowances for such period in accordance with regulations and procedures in effect immediately before July 1, 1984, but only if the Family was an Elderly Family during such period;

(4) Unusual Expenses taken into account in the calculation of Annual Income After Allowances for such period in accordance with regulations and procedures in effect immediately before July 1, 1984, but only if such Unusual Expenses qualified as Child Care Expenses as defined in § 913.102.

(5) The percentage applied to Monthly Adjusted Income in accordance with regulations and procedures in effect immediately before July 1, 1984, to determine the rental payment actually charged during such period.

(g) *Actual adjustments.* (1) If the adjusted tenant rental payment calculated under paragraph (f) is higher than the tenant payment actually charged for the applicable period, no adjustment shall be made. If the adjusted tenant rental payment calculated under paragraph (f) is lower than the tenant rental payment actually charged for the applicable period, the amount of such difference shall first be offset against any amounts due from the Family to the PHA and any remaining balance shall be applied as a credit to the Total Tenant Payment due immediately after the effective date of the reexamination. If the amount of any such credit to a Family exceeds 25 percent of the Total Tenant Payment due from such Family, such credit may be applied in not more than four installments.

(2) If a Family vacates a unit after October 1, 1984, and before the first reexamination occurring after such date, the PHA will notify the Family of the possibility of a rent adjustment for the period commencing October 1, 1984, subject to the requirement of a request therefor (made not later than 60 days after vacating the unit) together with notification of a current address to which any refund can be sent. For any Family making such a timely request, the PHA will make all calculations necessary to determine whether an adjustment is due to the Family pursuant to this paragraph (g) and, if so, the amount of any such adjustment will first be offset against any amounts due from the Family and any balance will be refunded to the Family.

(h) *Revised Subsidy Needs.* In accordance with § 900.109(d), each PHA

shall submit a revision of its annual operating budget to reflect the change in operating subsidy eligibility resulting from the estimated change in rental income that it anticipates will result from the implementation of these provisions.

[49 FR 21485, May 31, 1984; 49 FR 26719, June 29, 1984; 49 FR 28705, July 16, 1984]