

FAQ on FSS Final Rule Implementation

General

FSS Resources Page:

https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/fss

FSS Mailing List GovDelivery signup link:

<https://public.govdelivery.com/accounts/USHUDPIH/signup/30989>

Email us: FSS@HUD.gov

Gen1

Q. (For PHA's) What if I don't know who my Field Office representative is?

A. It's the same person that is your PHA's field office representative for everything else – someone in your agency knows. If you can't figure it out, email FSS@hud.gov

Gen2

Are you still doing FSS waivers due to COVID?

A. Yes.

<https://www.hud.gov/sites/dfiles/PIH/documents/Round6FAQsfinal.pdf>

GA11. I have a Family Self-Sufficiency (FSS) program participant who is at the end of their two-year Contract of Participation (CoP) extension. Can I use the PH and HCV-6 waiver described [PIH Notice 2020-13 REV-1](#) to extend their CoP for longer than 7 years?

GA11A. No. The authority made available under the CARES Act and implemented through PIH Notice 2020-13, REV-1 only allows you to consider COVID-19 as "good cause" in granting the normal extension (up to 2 years). The CARES Act did not provide HUD the authority to offer a blanket waiver to 24 *CFR* 984.303(d), which states that extensions may be up to 2 years. If a PHA has a participant who is nearing the end of the second year of extension and, except for COVID-19, would meet the requirements for graduation, please follow the standard process to request a waiver through the HUD field office, which then submits a recommendation to HUD Headquarters (HQ), as described in [PIH Notice 2018-16](#).

Gen3

Q. Does all of this apply to public housing AND vouchers?

A. Yes. The PH and HCV FSS programs have been combined since FY14. All of the provisions of the Final Rule apply equally to all types of rental assistance that can be served by FSS (with a few small exceptions for the program design for PBRA owners – see the regulations at 24 *CFR* 877.)

Gen4

Q. What is considered low income, very low income, and extremely low income?

A. This is not an FSS-specific definition.

- Low-income means 80% Area Median Income (AMI).
- Very low income means 50% AMI.
- Extremely Low-Income means 30% AMI.

Gen5 - (See 24 CFR 887.107 - Cooperative Agreements)

Q. Must a PHA enter into a cooperative agreement with a PBRA owner if requested?

A. No. It is up to a PHA whether they would like to enter into a cooperative agreement with a PBRA owner and both entities must agree to the terms of the agreement.

Gen6 (See 24 CFR 984.303 - Contract of Participation (CoP))

Q. If a PBRA owner inherits former Public Housing residents that have an active FSS Contract of Participation in a repositioning deal, must they establish a PBRA FSS program and continue to serve those residents until their CoPs are completed?

A. Yes (see [RAD Notice, Revision 4](#))

Gen7 (See 24 CFR 984.303 - Contract of Participation (CoP))

Q. If a PHA does not choose to enter into a cooperative agreement with a PBRA owner that is in this situation, does that absolve the PBRA owner from having to serve those FSS participants?

A. No.

Gen8

Q. For how many years are PHAs required to retain an FSS participant file after an FSS Exit?

A. Government Accounting Principles and the FSS Grant Agreement require grant files to be retained for at least three years after the period of the grant. There is no regulation regarding participant files.

Gen9 (See 24 CFR 984.103 - Definitions)

Q. Is there any additional language regarding responsibilities of the FSS Coordinator with regard to standard housing functions such as processing recertifications (annual, interim, portability/moves)?

A. The new regulation (24 CFR 984.103) includes a definition of Program Coordinator –

- **FSS Program Coordinator** means the person(s) who runs the FSS program. This may include (but is not limited to) performing outreach, recruitment, and retention of FSS participants; goal-setting and case management/coaching of FSS participants; working with the community and service partners; and tracking program performance.

NOFOs and Grant Agreements for several years have included the following language:

- FSS Coordinators may **NOT** engage in non-FSS activities (i.e. standard housing activities like re-certifications and HQS) **unless the grantee has obtained approval from the field office (and then, only for FSS participants)**
- Funds under this FSS NOFO may not be used for performance of routine PH, PBRA, or HCV program functions. However, an FSS coordinator may perform some PH, PBRA, or HCV functions, such as annual reexaminations for FSS participants, *if it enhances the effectiveness of the FSS program*. This provision is to be employed only to the extent that these functions enhance, and do not interfere with, the FSS Coordinator's ability to fully fulfill the role of the FSS Program Coordinator as their primary work. FSS Coordinator positions must not be used to balance or fill in for gaps in traditional staffing. Performance of routine HCV, PBRA and/or PH functions for non-FSS families does not enhance the effectiveness of the FSS program and is therefore an ineligible use of FSS funds. If an FSS coordinator will perform some PH, PBRA or HCV functions, a request must be submitted to HUD explaining how performing such duties enhances the FSS program. Prior HUD approval is required for an FSS coordinator to perform such functions. Further information may be provided in the grant agreement or through other means.

Gen10

Q. You mentioned HOTMA. What's that?

A. It's a separate piece of legislation, Housing Opportunity Through Modernization Act. Section 102 makes changes to regulations on rent calculation. FSS Coordinators should be aware of the potential implications. You can find more information in the [Federal Register](#) publication of the Proposed Rule.

Gen11

Q. Why would a family WANT to switch to the new CoP?

A. Several reasons... here are some big ones

- Only have to be "welfare-free" at the time of graduation, not for 12 months as it is under the old Rule.
- Monthly escrow credits can continue to grow if a family is between 50% and 80% AMI (under the old rules, they were capped at whatever the amount was when they hit 50% AMI)
- The base CoP is now longer – the initial end date is 5 years from the first re-certification after the effective date.
- The definition of "good cause" for an extension is broader.
- The Head of FSS Family doesn't have to be the HoH for rental assistance purposes.
- The possibility of "Termination with Escrow Disbursement" in certain circumstances.

Requirements for Implementation

Imp1

Q. What must a PHA/PBRA Owner with a current FSS program do in order to start using the new FSS Regulations?

- A. 1. Update their existing FSS Action Plan (24 CFR 984.201) to reflect the new regulations and include updated policies
2. Submit to HUD for review with Completed Checklist
3. Update FSS Action Plan approved by HUD
4. Start enrolling new participants under the new rules and CoP
5. Offer existing participants the opportunity to sign the updated Contract of Participation (each family that wants to be under the new regulations must sign an updated CoP)
- Effective date of the CoP will not change.
 - End date of the CoP will be updated to be 5 years from the date of the first recertification after the original effective date.
6. At next rent re-certification, use the new escrow calculation.

In order to update your FSS Action Plan, you should refer to the FSS Action Plan Checklist (updated for the Final Rule) posted on the FSS Resources page. Additionally, HUD will be posting a Sample FSS Action Plan (expected in July). The Sample FSS Action Plan will reference the updated FSS Promising Practices Guidebook. It is not required that you use this format, but it may be helpful. In the meantime, you may wish to reference the [Original Sample FSS Action Plan checklist](#) that was written for the old rule and contains references to the [Original FSS Promising Practices Guidebook](#).

The required contents of the FSS Action Plan (24 CFR 984.201(d)) have not changed. However, the regulations on Family Selection Procedures (24 CFR 984.203) have been updated. The new regulations also include a list of policies (24 CFR 984.201(d)(13)) that must be made at the local level and if not included in the FSS Action Plan document itself, must be submitted along with the FSS Action Plan.

This may include, and is not limited to:

1. Policies related to the modification of goals in the ITSP;
2. The circumstances in which an extension of the Contract of Participation may be granted;
3. Policies on the interim disbursement of escrow, including limitations on the use of the funds (if any);
4. Policies regarding eligible uses of forfeited escrow funds by families in good standing;
5. Policies regarding the re-enrollment of previous FSS participants, including graduates and those who exited the program without graduating;
6. Policies on requirements for documentation for goal completion;

7. Policies on documentation of the household's designation of the "head of FSS family;" and
8. Policies for providing an FSS selection preference for porting families (if the PHA elects to offer such a preference).

Imp2

Q. By when must I submit an updated FSS Action Plan

A. The updated FSS Action Plans must be approved by HUD by November 17. Action Plans must be submitted by September 30, 2022 in order to allow HUD time to review by November 17. As long as you submit by that date, you will be considered in compliance unless/until your Plan is deemed not acceptable. At that time, you will need to make the required changes by the date indicated.

Imp3

Q. How do I submit the updated FSS Action Plan?

A. PHAs must submit their revised FSS Action Plans to the mailbox PHAFSSActionPlans@hud.gov by September 30, 2022. The subject line must include the PHA name and number. The Action Plan must be accompanied by the completed FSS Action Plan Checklist. The cover sheet must be in a WORD format. PBRA owners should submit their revised FSS Action Plan and completed Checklist to their HUD Account Executive.

Imp4

Q. What happens if I don't submit by the due date?

A. If you do not submit your Updated FSS Action Plan by the required due date, you will no longer be in compliance with the program requirements and your current and/or future NOFO funding may be frozen until you are in compliance.

Imp5

Q. How long will HUD take to review my updated FSS Action Plan?

A. We will do our best to review within 45 days of receipt.

Imp6

Q. (for PHAs) Will updating my FSS Action Plan be considered a significant amendment? Will it have to be approved by my Board? Will we need a public hearing?

A. PHAs identify what is considered a significant amendment to their PHA Plan, so the answer will vary based on the definition adopted by the PHA. For more information, see *24 CFR 903.7(r)*.

Imp7

Q. Can I continue enrolling new participants after June 17, when the new rule is effective, but before my updated FSS Action Plan is approved?

A. No. You must stop enrolling new participants after June 17 until your new FSS Action Plan has been approved.

Imp8

Q: Does the Rule apply retro-actively?

A: No. However, if you would like for the new rules to apply to existing participants, after your FSS Action Plan is approved, you must, person-by-person, sign a new Contract of Participation (CoP) to indicated that you have discussed the new rules with the participant and they want to have the new rules apply to them.

Imp9

Q. Once the FSS Action Plan is updated and the new FSS Contract of Participation is in effect for your PHA/organization, are we required to offer the new contract to our FSS clients that signed up under the old contract?

A. It is optional. If the participants do not switch, they will remain under the old FSS CoP unless/until they switch over to the new CoP. We strongly encourage you to encourage your participants to switch over because we believe the new regulations are better for participants and it will be more consistent for your program as a whole.

Imp10

Q. If an existing participant signs a new CoP, what happens to the effective and end dates?

A. The effective date will not change. The end date of the CoP will change, per the new *24 CFR 984.303(c)* which states that "each FSS family will be required to fulfill CoP obligations no later than 5 years after the first re-examination of income after the execution date of the CoP."

Imp11

Q. If a participant signs a new CoP under the new rules, can their escrow be adjusted retro-actively?

A. No, but at the next rent re-certification, the new escrow regulations should be used.

Imp12

Q. What happens if an existing participant does not want to sign a new CoP?

A. They would remain under the old regulations until their CoP is completed (graduation or exit)

Imp13

Q. Does that mean that a PHA or owner with an existing program might have to manage two different escrow calculations if some families do not switch to the new CoP?

A. Yes

Imp14

Q. After our Updated FSS Action Plan is approved, when we are enrolling new families, can they choose to use the old rules?

A. No.

Imp15

Q. Is there a deadline by which existing participants must sign a new CoP if that's what they want to do?

A. No. An existing participant may switch over to the new rules by signing a new CoP at any time during their Contract.

Imp16

Q. What about MTW agencies?

A. All of these regulatory changes apply the same to MTW agencies. If an MTW agency has waived any 24 CFR 984 regulations in their MTW Plan or MTW Supplement, they will need to review their FSS activities along with their FSS Action Plan to ensure the revised/new regulations do not necessitate an update to the related MTW activity. If an update to the MTW Plan or MTW Supplement is needed (i.e., revised regulations do not match the MTW activity, new regulations need to be waived, etc.), please make these updates in your next MTW Plan or MTW Supplement submission, as necessary.

Imp17

Q. Does the 180-day compliance deadline also apply to MTW agencies?

A. Yes, MTW agencies must bring their FSS Action Plans into compliance with the new regulations by November 17. They must also bring their MTW Plans or MTW Supplements into compliance with the FSS Rule if they choose to use their MTW authority to waive any new requirements. This can be done through the next regularly scheduled MTW Plan or MTW Supplement submission, if the timing meets the deadline, or through an amendment to the MTW Plan or MTW Supplement.

Imp18

Q. How will these changes get into our software?

A. Software vendors will need to update their product to comply with the new regulations.

Who can participate? (See 24 CFR 984.101 - Purpose, Applicability, and Scope)

Par1

Q. Who can be in my FSS program?

A. Prior to FY2014, HUD had two separate FSS programs – one for HCV (and all types of special purpose vouchers) and one for Public Housing. In FY2014, HUD combined the two programs into one. Every existing FSS program has been regulatorily able to serve both HCV and Public Housing since FY2014. If your PHA has been serving only one or the other, that has been a local choice. This has also included Project-Based Vouchers as well.

Under the [RAD Notice](#), PBRA owners were required to continue to serve all Public Housing residents whose units had repositioned to Project-Based Rental Assistance (PBRA, also known as Multifamily) until their Contracts of Participation ended. Post-RAD PBRA owners with FSS

programs were required to report under the PBRA FSS reporting rules. PBRA owners could establish cooperative agreements with PHAs to serve RAD-affected PBRA FSS participants using HUD FSS NOFO funding.

Starting in FY2015, PBRA owners were authorized to start their own FSS programs without HUD funding. PHAs could not serve non-RAD-affected PBRA residents who wanted to be in FSS.

Now, under the Final Rule, PHAs with HUD NOFO funding starting in FY2022 are able to serve any PBRA FSS program participant with HUD NOFO funding. This assumes that the PBRA owner has a cooperative agreement with the funded PHA.

Par2

Q. So what about Voucher Homeownership (Section 8(y))? (See 24 CFR 887.101(b) Purpose, Applicability and Scope)

A. Families with Homeownership Vouchers may enroll in FSS and families that transition into Voucher Homeownership may remain in FSS.

Par3

Q. Does it count for Foster Stable Housing Opportunity (FSHO) if another adult chooses to be the Head of FSS Household?

A. No. The eligible youth receiving Family Unification Program (FUP) or Foster Youth to Independence (FYI) voucher assistance must be the person enrolled in and in compliance with the FSS program (or meet other requirements outline in FSHO) in order to have their voucher extended on the basis of participation in FSS. The FUP/FYI youth may not have their voucher extended on the basis of another household member's participation in FSS.

Par 4

Q. Can families in Low-Income Housing Tax Credit (LIHTC) units be in FSS?

A. No, unless there's also a voucher attached to the unit. LIHTC rents are otherwise not income-based.

Par 5

Q. Can families served by McKinney-Vento Shelter-Plus-Care rental assistance be in FSS?

A. No.

Par 6

Q. Can families that graduated from FSS re-enroll? What about families that were in FSS but didn't graduate? What about families where the FSS Head of Household graduates and leaves the household but now another adult family member wants to be in FSS?

A. The Final Rule did not change this – this is a policy to be made at the local level and codified in the FSS Action Plan. See 24 CFR 984.201(d)(13)(v). Please refer to the FSS Guidebook for policy considerations.

Par 7

Q. Who can apply for HUD FSS NOFO funding starting with the FY2022 NOFO funding?

A. PHAs and PBRA owners. Please CAREFULLY READ each year's NOFO for information on other eligibility requirements, that year's priorities, and how to apply.

Par 8

Q. Who gets priority? (See 24 CFR 984.107 - FSS Award Funds Formula)

A. The statute includes a funding priority that states that HUD must fund renewal grantees that meet all applicable requirements first. Then, HUD may fund new grantees or add new positions to existing grantees.

Par 9

Q. How will all of this affect the participant count for NOFO competition purposes?

A. It won't. For the FY2022 NOFO (the one coming out this summer) we are looking at participants (enrollments, progress, and exit reports) from CY2021. For FY2023, we will look at the same report for the period of CY2022. There's no need to stop enrolling, working with, or graduating any FSS participants due to this rule change. If a PHA adds PBRA participants that will not be reflected in PIC, they will be able to submit a report documenting those participants, as has been the case with RAD-affected PBRA participants for the last several years.

Par 10

Q. What does the Final Rule say about Participant-to-Coordinator Ratios? (See 24 CFR 984.107(a) - FSS Award Funds Formula)

A. The new statute codified the same ratios that HUD had been using in the NOFOs for years.

- 25:1 for the first coordinator
- +50 for each additional coordinator

This doesn't mean that every PHA has been or will be funded for the full number of coordinators that their participant count supports. This is the minimum qualifications. PHAs and owners can and do run programs with higher participant-to-coordinator ratios – many quite successfully.

Number of FSS Families Served During the Target Period	Number of Positions Supported
15-24 families	1 part-time position
25-74 families	1 full-time position
75-124 families	2 full-time positions
125-174 families	3 full-time positions
175-224 families	4 full-time positions
225-274 families	5 full-time positions
275-324 families	6 full-time positions

325-374 families	7 full-time positions
And so on in increments of 50	

Contract of Participation (24 CFR 984.303)

CoP1

Q. Has the new Contract of Participation form been published?

A. Yes – on the FSS Resources page - [HUD-52650 FSS Contract of Participation](#)

CoP2

Q. Do we have to use that exact form for the CoP or ITSP or can we translate it into another format like we could with the old form?

A. You may translate it into a different format, as long as it contains all of the same information that the form contains.

CoP3

Q. May we use electronic signatures on CoPs and other FSS forms?

A. Yes, following the same rules for electronic signatures that apply to other resident forms.

(See COVID FAQs OC15, OC7, OC58 ([COVID-19 Related FAQ Round 7](#)))

Contract of Participation – Who can Sign? (24 CFR 984.303(a)- Contract of Participation (CoP))

HoH1

Q. Who can sign the new CoP?

A. Any adult member of the household.

HoH2

Q. Does the person who signs the FSS CoP have to become Head of Household for rental purposes?

A. No.

HoH3

Q. Can there be more than one CoP for a household at a time?

A. No, but more than one adult may have an ITSP (this is not a change)

HoH4

Q. Who decides which adult in the household gets to sign the CoP?

A. The household.

HoH5

Q. What if the household can't decide?

A. It's up to them to work it out.

HoH6

Q. How do I have to document that the household agreed on the person to sign the CoP?

A. That's a policy the PHA/owner must set. See 24 CFR 984.201(d)(13)(v).

HoH7

Q. If it's not the HoH for rental purposes who signs the CoP, who gets the escrow?

A. The FSS Head of Household (the person who signs the CoP) gets the escrow.

HoH8

Q. Who is responsible for meeting the requirements of the CoP? (See 24 CFR 984.303(a)-(b)(1), (2) and (4))

A. The person who signs it is responsible for seeking and maintaining suitable employment. The entire household must be welfare-free at the time of graduation and the goals on the ITSP for every family member who has one have been completed.

HoH9

Q. Can the family change the Head of FSS Household during the period of the CoP?

A. Yes, but the start/end dates and baseline of the CoP would not change.

Contract of Participation – Start and End Dates

Date1

Q. The Proposed Rule said something about the effective date being the same date the CoP is executed. What happened with that?

A. We heard you loud and clear that that doesn't make sense, so the Final Rule did not change the regulation that says that the CoP effective date is the first of the month following the execution of the CoP. See 24 CFR 984.103 Definitions – Effective Date of the Contract of Participation

Date2

Q. When we add the CoP expiration date (5 years after the first recertification of income after execution) do we need to get a new participant signature or initials next to the date?

A. Both parties need to agree to the CoP term amendment. Amendments can be done in various ways—by crossing out dates and having both parties sign by the new date or by having both parties sign an amendment (paper attached to the original CoP) that states the new date. Either way, all changes need to be agreed to by both parties—and this agreement is shown by signing their names.

Date3 (See 24 CFR 984.303(c) - Contract of Participation)

Q. OK, so the new CoP has an end date of 5 years from the first income re-certification after the effective date of the CoP. Is that an interim or an annual?

A. Whichever comes first.

Date4

Q. What if the income re-certification doesn't result in a rent change?

A. Doesn't matter. It still sets the end date.

Date5

Q. What about administrative changes to the 50058 or 50059?

A. No, those don't count. It has to be an interim or annual re-certification of the family's income.

Date6

Q. What if your PHA has bi-annual or tri-annual re-certifications?

A. Then the base contracts for your FSS participants may be up to seven or even eight years long.

Date7

Q. Does that mean that we will be able to serve fewer people in our program, since the Contracts will be longer?

A. No. This is up to the PHA or Owner. Ideally, the longer a family is in the FSS program, the less assistance they need, because they have overcome barriers and have moved into stable employment, and are working on goals that require less support from the coaches/case managers. Consider employing a triage system that creates tiers of expected support. The less support a family needs, the more families a coordinator can have on their caseload. Some of our more successful programs have higher caseloads because they work more intensively with families when they need it, but don't burden themselves or their participant families with unnecessary meetings as they achieve initial goals and start to set more stretch goals that can be worked on more independently, after a plan is set.

Also remember that families don't have to stay on FSS the full length of their CoP. Currently, the average time in the program for graduates is approximately 3.5 years.

Date8

Q. What about the fact that PIC requires that the end date be included on the enrollment 50058 and that we get a flag if the CoP is longer than seven years?

A. The PIC team will be issuing updates to the Technical Requirements Guide this summer and the flags/fatal errors will be updated.

Contract of Participation – Individual Training and Services Plans (ITSPs)

ISTP1

Q. Has the “welfare-free” goal changed? (See 24 CFR 984.303(b)(2) - Contract of Participation (CoP))

A. Yes. The old regs stated that the family had to be free of cash welfare assistance for 12 months before graduating. The Final Rule states that the family must be free of cash welfare assistance at the time of graduation (the 12-month requirement has been eliminated.)

ITSP2

Q. Can the PHA still set a mandatory goal that all families are welfare-free for 12 months?

A. No.

- 24 CFR 984.303(b)(2) indicates “Aside from the goals specifically required in this section, PHAs or owners must work with each participant to establish realistic and individualized goals and may not include additional mandatory goals or mandatory modifications of the two mandatory goals.”

ITSP3

Q. What’s the definition of “Suitable Employment”?

A. 24 CFR 984.303(b)(4)(iii)

- Determination of suitable employment. A determination of suitable employment shall be made by the PHA or owner, with the agreement of the affected participant, based on the skills, education, and job training, and receipt of other benefits of the household member, and based on the available job opportunities within the jurisdiction served by the PHA. or in the community where the PBRA property is located. (underlines are new language in the Final Rule)

ITSP4

Q. Can the PHA/owner set mandatory requirements around the employment final goal? Like being employed for 6 months or a year or being employed at least 30 hours/week?

A. No. The PHA/owner may not set across-the-board mandatory requirements aside from the two statutory final goals (employment and welfare-free). Any other parameters around employment must be agreed to by the FSS family.

- 24 CFR 984.303(b)(2) indicates “Aside from the goals specifically required in this section, PHAs or owners must work with each participant to establish realistic and individualized goals and may not include additional mandatory goals or mandatory modifications of the two mandatory goals.”

ITSP5

Q. What about setting other goals required of every FSS family at a particular PHA/owner's program?

A. No. The FSS Program may not institute across-the-board mandatory goals. If an FSS Program feels that some goals are critical for reaching self-sufficiency (e.g. financial coaching), they may strongly encourage the family to engage in those activities, but they may not make it a *requirement* for *everyone* in their program.

- 24 CFR 984.303(b)(2) indicates "Aside from the goals specifically required in this section, PHAs or owners must work with each participant to establish realistic and individualized goals and may not include additional mandatory goals or mandatory modifications of the two mandatory goals."

ITSP6

Q. But, that's going to make it harder to get families to engage!

A. That's what coaching is about. Talk to participants about what their goals are, talk about how to reach those goals, the steps that are necessary, the resources that are available, and create buy-in. It works so much better than a mandate in the long-term anyway!

ITSP7

Q. Can a family stay on FSS solely to accumulate escrow?

A. No. The Head of FSS Household must always be working on one or more goals.

Escrow Calculation

Esc1

Q. Has the new Sample Escrow Calculation Worksheet been published?

A. Yes.

- [FSS Escrow Spreadsheet for PHAs](#)
- [FSS Escrow Spreadsheet for Project-Based Rental Assistance \(PBRA\) owners](#)

Esc2

Q. Are those Escrow Calculation Worksheets just samples? Can we still use our software to calculate escrow?

A. You will need to work with your software vendors to ensure that the software has been updated to conform with the new regulations.

Esc3 (Imp11)

Q. Might a PHA or owner with an existing program have to manage two different escrow calculations if some families do not switch to the new CoP?

A. Yes

Esc4

Q. So how is your software supposed to know which escrow calculation to use if a family is under old CoP versus new CoP?

A. Software vendors might want to build in that functionality.

Esc5

Q. What if we're an MTW agency that calculates escrow differently?

A. If you have modifications of the FSS escrow calculation or other incentives approved in your MTW Plan, then you should follow your approved plan. You will have to work with your software providers to ensure that it calculates correctly per your modifications.

Esc4

Q. Where does the information on the Escrow Calculation Worksheet come from?

A. The HUD-50058 Family Report. If you're not familiar with the HUD-50058, you can find it here. <https://www.hud.gov/sites/documents/50058.PDF>. Your PHA may have software that you use to input the same information. For multifamily properties, it comes from the HUD-50059.

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Esc5

Q. Does unemployment count as Earned Income?

A. No. Earned income is all income items on form HUD 50058 column line 7f identified with one of the income codes for wage or business income: B, F, HA, M or W

Esc6

Q. Setting baseline income – do we have to do a new income re-certification when we enroll a family in FSS?

A. No. The “120-day rule” which required that an income re-certification was completed within 120 days before enrollment was eliminated two years ago via the appropriations law. It is now codified in regulation that baseline income is set using the most recent income re-certification that is in effect as of the effective date of the Contract of Participation. (See 24 CFR 984.103 – Definitions – Baseline Annual Earned Income)

Esc7

Q. OK, but what if we want to set a policy that says we do an income re-cert when we enroll a new family? Can we?

A. No.

Esc8

Q. Do we set the baseline at enrollment or at the first re-certification after the effective date of the CoP?

A. At enrollment. This hasn't changed.

Esc9

Q. What does 984.103(b) mean? - "In calculating baseline annual earned income, all applicable exclusions of income must be applied, except for any disregarded earned income or other adjustments associated with self-sufficiency incentives that may be applicable to the determination of annual income."

A. Under the new regulations, all earned income that had been disregarded due to a self-sufficiency program (such as EID) would be INCLUDED when the baseline is set. That does not mean that the participant's rent would change... it just sets the baseline income so the family would not start earning escrow until they had exceeded that.

As of right now in standard HUD programs, there is only EID (which will sunset with HOTMA) and JPEID – associated with the Jobs Plus programs. There may be other modifications that have been made by MTW agencies that would fall into this situation as well.

Esc10

Q. How do we deal with participants who have earned income disregarded?

A. To set the baseline, include all actual earned income. Follow rent calculation regulations or program rules when calculating rent to be paid. When the rent paid exceeds the baseline (which included all earned income when the family entered the FSS program) then escrow begins.

Esc11

Q. For EID person enrolled in FSS while unemployed, 50058 showed no earned income, then person got job. Their income was disregarded 100% first year, so no rent paid from earned income, so no escrow. but 2nd year person earned income and paid 50% of their rent and received the 50% disregard for year 2 and 50% escrow (half of escrow) do they not receive that portion of the escrow since they paid according to their earned income? the 3rd year, they are off of EID and paying full rent so then do they not receive full escrow?

A. No. In this scenario, the person would receive full escrow once they were no longer having any income disregarded. The key is, they enrolled at \$0 income, so their FSS escrow baseline income was set at \$0. If they had been earning \$5000 when they enrolled in FSS, even if that \$5000 had been being disregarded, the FSS baseline income would have been set at \$5000.

Esc12 (See 24 CFR 984.305(a)(2)(iii) - FSS Escrow Account)

Q. What happens if families under-report their income?

- A. Basically, the family can't pay less rent AND accumulate more escrow. If the FSS family is found to have under-reported income in the re-examination used to set the baseline, (so, their baseline should have been higher) the escrow for the entire period of

the CoP will be re-calculated using the correct income to set the baseline and then calculate subsequent escrow amounts. The escrow will be smaller each month because the baseline will be higher and thus the difference between the baseline and the current will be less.

- If the FSS family has been found to have under-reported income after the baseline annual earned income was set, (so, their current rent should have been higher) the amount credited to the FSS escrow account will be based on the income amounts originally reported by the FSS family. The family does not earn more escrow on back-rent paid pursuant to a repayment agreement in this case.

Esc13

Q. Now that the escrow must be deposited monthly (24 CFR 984.305(a)(1)), does the interest have to be allocated monthly as well?

A. No. 24 CFR 984.305(a)(3)(iv) indicates that the PHA/owner must report to each FSS family the amount of interest earned on the account each year. The escrow must be credited and allocated at least annually.

Esc14

Q. Is escrow affected if the family receives outside rental assistance?

A. No.

Esc15

Q. If a family moves from the old regs to the new regs, do we re-do their baseline?

A. No. You would just use the new escrow calculation at their next income re-certification.

Esc.16

Q. What if the new escrow calculation makes their escrow calculation go down?

A. The primary impact of the changes to the escrow calculations is to allow families that reach or have reached 50% AMI to continue to increase their escrow amount, where previously, there was a cap. For these families, the new escrow calculation will cause their monthly FSS escrow amount to go up and not down. While the escrow caps based on gross rent and the voucher payment standard may limit the amount of escrow that some existing FSS participants accumulate, overall, we anticipate that very few existing FSS participants will experience a decrease in their monthly escrow accumulation when they transition to the new calculation.

Esc17

Q. Could a family lose their accumulated escrow by switching from the old calculation to the new?

A. No.

Extensions

Ext1

Q. Do we have more leeway in giving CoP extensions now?

A. Yes. *24 CFR 984.303(d)* has been expanded. Now, in addition to circumstances beyond the family's control, the following are valid definitions of "good cause" to approve an extension:

(2) Active pursuit of a current or additional goal that will result in furtherance of self-sufficiency during the period of the extension (e.g., completion of a college degree during which the participant is unemployed or under-employed, credit repair towards being homeownership ready, etc.) as determined by the PHA or owner; or

(3) Any other circumstance that the PHA or owner determines warrants an extension, as long as the PHA or owner is consistent in its determination as to which circumstances warrant an extension.

Ext2

Q. Does this change in the length of the base FSS CoP affect extensions?

A. No. The PHA/owner may still find good cause for extending the CoP for up to 2 years beyond the base contract. Extensions may be given for any period of time up to 2 years and any number of extensions may be given, as long as their total time does not exceed two years. PHAs may make these policies locally. See *24 CFR 984.201(d)(13)(ii)*

Ext3

Q. If a participant chooses to stay under the old CoP and then they get an extension (based on the old regulations) do they automatically switch to the new regulations?

A. No. If a participant chooses to stay under the old regulations, they stay under the old regulation until their CoP, including any extensions, is complete or until they choose to switch to the new regulations.

Finishing the Contract of Participation (24 CFR 984.303(g))

End1

Q. Can participants still graduate from FSS using the "30% Rule" (sometimes known as "going over income?"

A. No. That rule has been eliminated. The only way to graduate from the FSS program successfully is when the FSS family has fulfilled all of its obligations under the CoP, including all family members' ITSPs.

End2

Q. Can participants stay in FSS during their 180 days of “Zero HAP” (also known as “Paying Full Rent”)?

A. Yes. This has always been the case and has not changed. But note that if a family’s income goes over 80% of AMI, they are no longer eligible to accumulate escrow. It is not uncommon for residents to start into their 180 days of paying full rent before their voucher eligibility ends, and then have a life event that brings their income below that level. It’s generally best practice to allow a family to stay on FSS even if they are not earning escrow during that time, in case they do end up continuing their voucher – that way, they can continue with their Contract of Participation.

End3 (See 24 CFR 984.305(a)(2)(ii) FSS Escrow Account)

Q. Can the PHA/Owner require participants to pay back interim escrow disbursements if they don’t graduate?

A. No.

Termination with Escrow Disbursement

Term1 (See 24 CFR 984.303(k) - FSS Escrow Account)

Q. What are the reasons a family could still have their escrow even if they don’t graduate?

A. Termination with Escrow Disbursement could happen in three scenarios

1. The PHA/owner and family agree that one or more services/resources are both critical and unavailable.
2. The Head of FSS family becomes permanently disabled and unable to work after having earned escrow and there is no other household member able or willing to assume the CoP.
3. The family ports in a situation where they are unable to continue to CoP, but have not yet met the requirements for graduation and the PHA determines that there is good cause for termination with escrow disbursement.

Term2

Q. What verification is required for scenario #2?

A. The regulations do not stipulate.

Term3

Q. What if an FSS participant passed away before graduating and there was no other adult family member to take over the CoP?

A. This would still be a matter to be taken up in a waiver request.

Forfeited Escrow

For1

Q. When a family graduates, 24 CFR 984.305(a)(2)(iii) states that the PHA/owner can take any amount owed to the PHA/owner by the family before disbursing the funds. Is that true if the family forfeits the escrow?

A. No. Forfeited escrow cannot be used to settle debts owed by the family to the PHA/owner.

For2

Q. What can we use this forfeited escrow pot for?

A. 24 CFR 984.305(f)(2)(i-ii)

- (A) Support for FSS participants in good standing, including, but not limited to, transportation, child care, training, testing fees, employment preparation costs, and other costs related to achieving obligations outlined in the CoP;
- (B) Training for FSS Program Coordinator(s)

(ii) Such funds may not be used for salary and fringe benefits of FSS Program Coordinators; general administrative costs of the FSS program, for housing assistance payments (HAP) expenses or public housing operating funds

For3 (See 24 CFR 984.305(f) - FSS Escrow Account)

Q. I know we can't use the forfeited escrow pot to pay for an FSS Program Coordinator – can we use it to pay for a different salaried position?

A. That's not recommended. The pot should, ideally be empty, right? Since the goal is always to support every family to successfully graduate. So making a commitment such as a salary could put the PHA/owner in a bind if there are no forfeited escrows.

For4

Q. Is there a time limit on the PHA/owner's use of forfeited escrow in the account for the benefit of current FSS families?

A. No.

For5

Q. Can funds forfeited from an FSS family that was in HCV be used to benefit an FSS family that is in PH or PBRA and vice versa?

A. Yes.

For6 (See 24 984.201(d)(13)(iv) – FSS Action Plan)

Q. Is there a limit on the amount that any family can receive from the "forfeit pot"?

A. No. This is a matter for local policy.

Transitional Supportive Services

Trans1

Q. Part 984.303(j) *Transitional Supportive Services* reads: “A PHA or owner may continue to offer to a former FSS family that has completed its CoP, appropriate coordination of those FSS supportive services needed to become self-sufficient if the family still resides in public housing or Section 8 housing.” In the prior iteration of this regulation, the head of the FSS family was required to be employed as a condition of eligibility for the transitional services. Was that intentional?

A. Yes. It is entirely possible that a participant could be employed and then graduate, and then lose employment. The PHA/owner could provide transitional supportive services in this case.

Program Coordinating Committee (PCC) (See 24 CFR 984.202)

PCC1

Q. Do the residents on my PCC have to be current FSS participants?

A. The regulations do not require this.

PCC2

Q. Are there term requirements for PCC members?

A. The regulations do not have any parameters for this.

PCC3

Q. How often does my PCC have to meet?

A. The regulations do not have a requirement for this. Best practice is quarterly.

PCC4 (See 24 CFR 984.202 (c) - Program Coordinating Committee)

Q. Can we still use an alternative gathering of local service providers as our PCC?

A. Yes, as long as it includes the required membership (including residents)

PCC5

Q. Is there a scenario in which an FSS program operated by PBRA owner does not have a PCC?

A. Yes. According to 24 CFR 887.105(4), “When a Program Coordinating Committee (PCC)... is available, owners shall work with that PCC or shall create their own PCC, either by themselves, or in conjunction with other owners.” Owners are highly encouraged to have a PCC if one is available in their area, but PCCs are not required.

Portability (24 CFR 984.306)

Port1 (See 24 CFR 984.306(2)(b) - HCV Portability Requirements for FSS Participants)

Q. I’m still a little confused about portability. Who can continue in the FSS program after they port?

A. The key is, does the PHA that administers the family’s RENTAL ASSISTANCE have an FSS program? If yes, the family may enroll in the receiving PHA’s FSS program or, if feasible, may

continue in the initiating PHA's FSS program. However, if the receiving PHA ABSORBS the voucher AND does NOT have an FSS program, the family cannot continue in the program. This is not a change from [PIH Notice 2016-8](#).

	RHA administers/bills	RHA absorbs
RHA has FSS	YES	YES
RHA does not have FSS	YES	NO

Mandatory Programs (984.105 Minimum program size)

Mand1

Q. When we're talking about Mandatory Programs and Mandatory Program Size, does that have to do with HUD FSS NOFO funding?

A. No.

Mand2 ((See 24_CFR 984.105 - Minimum Program Size)

Q. Then what is it?

A. In brief, any PHA that accepted a new voucher increment and/or new public housing units between 1992 and 1998 incurred a commensurate number of FSS Slots in their FSS Mandatory Program. At that time, there was separate Public Housing FSS and HCV FSS. Then, after 1998, for every person that graduated from each FSS program, the number of slots was reduced by one. The HCV Mandatory slots were "tracked" in SEMAP based exclusively on PHA self-reports. The Public Housing slots were not tracked. HUD is in the process of re-determining the number of mandatory slots at each PHA using historical data.

Mand3

Q. What does the new FSS Statute have to say about it?

A. The new statute says that if a PHA still had mandatory slots as of May 24, 2018 (the day the Economic Growth Act passed) they still have them – but now the number of public Housing mandatory slots and the number of HCV mandatory slots are combined into a single number of mandatory slots. Likewise, any graduate from any rental assistance program (including PBRA) counts toward reducing the number of mandatory slots.

Mand4

Q. Can I get an exception on my Mandatory Program requirement? (See 24 CFR 984.105(e) - - Minimum Program Size)

A. PHAs can request an exception from their field office to either a) run a program smaller than their Mandatory Program Size or b) not run a program at all. Field offices, under the old rule, could grant an exception for up to three years. Under the new rule, they can grant an exception for up to five years.

Mand5

Q. If I don't have any Mandatory Program slots left, can I still get those points in SEMAP?

A. No. Indicator 14 is not applicable.

Mand6

Q. If FSS graduations from participants of any rental assistance program counts toward reducing the mandatory program size, how do we reflect this in SEMAP?

A. The indicator on SEMAP that asks the number of mandatory slots your PHA has always been completely self-reported.

Mand7

Q. If we meet our Mandatory Program requirements, do we have to end our FSS program?

A. No! You'll just be running a "voluntary" FSS program. All the rules and funding opportunities are the same.

Future Technical Assistance and Guidance

Next1

Q. Will everyone who has taken HUD's online training on HUD Exchange have to take it again?

A. Yes, but that will not be required until the FY2022 funding is awarded.

Next2

Q. Is HUD planning to issue an update to the HUD-50059 for multifamily owners so that we can submit our reports to TRACS like PHAs can submit the Section 17 FSS Report on the HUD-50058 into PIC?

A. Yes, it is scheduled to be included in the next TRACS release, which should occur soon.

Next3

Q. Will Multifamily be issuing a separate FSS Implementation Notice? When?

A. We are currently working updated Multifamily implementation notice. We hope to have the notice published as soon as possible.

Next4

Q. Will there be a Sample Cooperative Agreement available?

A. HUD will develop a sample Cooperative Agreement in the future, but it is not currently available.