



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

Special Attention:

Directors of HUD Regional and Field
Offices of Public Housing; PIH Program Center
Coordinators; Public Housing Agencies

NOTICE PIH 2013-03 (HA)

Issued: January 22, 2013

Expires: March 31, 2014

Subject: Public Housing and Housing Choice Voucher Programs – Temporary
Compliance Assistance

1. **Purpose:** This Notice establishes temporary guidelines for public housing agencies (PHAs) in fulfilling certain Public Housing (PH) and Housing Choice Voucher (HCV) program requirements during this period of decreased resources available to PHAs. These guidelines are intended to facilitate the ability of PHAs to continue, without interruption and with minimal burden, the delivery of rental assistance to eligible families in their communities. The temporary provisions established by this Notice will be available to PHAs until March 31, 2014.

The economic downturn that commenced in 2008 and which continues has only increased the need for housing assistance. Increased demand for housing assistance without corresponding increased resources strains the operations of PHAs, and jeopardizes their ability to assist families at a time when families most need housing assistance. Increasing administrative flexibility should allow PHAs to deliver rental assistance more efficiently and expeditiously. Reduction of administrative burden is anticipated to allow PHAs to better manage their programs within current allocated budget authority. The temporary guidelines are also designed to increase efficiencies, minimizing the use of resources for program administration. HUD intends to pursue more permanent changes to increase flexibility and reduce administrative burden and will be informed by PHAs' use of the temporary compliance provisions of this Notice.

2. **Applicability:** This Notice applies to both the PH and HCV programs, except where noted.

3. **Temporary Provisions:**

Allow option to use participants' actual past income in verifying income.

Projecting expected income and obtaining the additional documentation necessary to project income places an unnecessary burden on PHA staff time and resources when compared to the minimal annual change in tenant incomes. Further, projecting income can lead to PHA staff errors that result in improper rent determinations. This

provision is intended to simplify the requirements associated with determining a participant's annual income (24 CFR 5.609(a)(2)).

In determining annual income, PHAs may choose to use either actual past income or projected future income. Currently, annual income includes income that is anticipated to be received from a source outside the family during the 12-month period following the effective date of admission or annual reexamination. This Notice provides PHAs with the option of determining annual income based on past actual income received or earned within the last 12 months. If a PHA operates both PH and HCV programs, this option is available for both of their programs.

For the purpose of verifying income reported in HUD's Enterprise Income Verification (EIV) system, PHAs that choose to use actual past income must use the most recent 12 months of income information available in EIV. Because this EIV report will give actual earnings data verified by a third party, the program participant is no longer required to provide third party documentation (e.g., paystubs, payroll summary report, unemployment monetary benefit notice).

If there has been a change in circumstances for a tenant, or a tenant disputes the EIV-reported income information and is unable to provide acceptable documentation to resolve the dispute, the PHA must request written third-party verification. For example, if a program participant lost his/her job, changed jobs, or reduced their hours in the months subsequent to the time period covered in EIV, the PHA must use, at the participant's request, the more recent income information verified by participant provided third-party documentation (e.g., paystubs, payroll summary report, unemployment monetary benefit notice) or through written third-party verification, which reflects the new or current work circumstance.

PHAs must continue to verify income from sources not available in EIV. However, PHAs must use the same time period for both wage and non-wage income. For example, if a PHA uses EIV information from July 2011 to June 2012 for the purpose of verifying income from wages, the PHA must use the same time period for any non-wage income.

Allow households to self-certify as to having assets of less than \$5,000.

Tenants with assets below \$5,000 typically generate minimal income from these assets which results in small changes to tenant rental payments. However, PHAs spend significant time verifying such assets which strains PHA budgets, and leads to increased staff errors. This provision is intended to simplify the requirements associated with determining a participant's annual income (24 CFR 5.609(b)(3), 982.516(a)(2)(ii), 960.259(c)).

Families with assets are required to report all assets annually. The amount of interest earned on those assets is included as income used to calculate the tenant's rent obligation. Currently, where the family has net family assets in excess of \$5,000, annual income includes the greater of the actual income derived from all net family

assets or a percentage of the value of such assets based on the current passbook savings rate.

This Notice allows a PHA to accept a family's declaration of the amount of assets of less than \$5,000, and the amount of income expected to be received from those assets. The PHA's application and reexamination documentation, which is signed by all adult family members, can serve as the declaration. Where the family has net family assets equal to or less than \$5000, the PHAs does not need to request supporting documentation (e.g. bank statements) from the family to confirm the assets or the amount of income expected to be received from those assets. Where the family has net family assets in excess of \$5000, the PHA must obtain supporting documentation (e.g. bank statements) from the family to confirm the assets. Any assets will continue to be reported on HUD Form 50058.

Allow optional streamlined annual reexaminations for elderly families and disabled families on fixed incomes.

PHAs are statutorily required to verify income and calculate rent annually, including for elderly and disabled families on fixed incomes. The requirement to undertake the complete process for income verification and rent determination for families on fixed incomes is not necessary given the infrequency of changes to their incomes. Further, this requirement requires considerable staff time and PHA resources. This provision is intended to simplify the requirements associated with determining the annual income of participants on fixed incomes (24 CFR 982.516, 960.257).

PHAs may opt to conduct a streamlined reexamination of income for elderly families and disabled families when 100 percent of the family's income consists of fixed income. In a streamlined reexamination, PHAs will recalculate family incomes by applying any published cost of living adjustments to the previously verified income amount.

For purposes of this notice, the term 'fixed income' includes income from:

1. Social Security payments to include Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI);
2. Federal, State, local, and private pension plans; and
3. Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic receipts that are of substantially the same amounts from year to year.

Allow PHAs to establish a payment standard of not more than 120 percent of the fair market rent (FMR) without HUD approval as a reasonable accommodation.

Under current regulations, PHAs must request a waiver from a HUD Field Office for exception payment standards above 110% of the FMR; this process takes considerable administrative time for the PHA and, in some cases, the processing time for the waiver prevents the family from leasing the unit. Under this provision, PHAs

may approve a payment standard of not more than 120 percent of the FMR without HUD approval if required as a reasonable accommodation for a family that includes a person with disabilities. This provision applies to the HCV program only and allows a PHA to establish a payment standard within limits currently permitted but designated for approval only by a HUD Field Office (24 CFR 982.503(c)(2)(B)(ii)). For any voucher unit assisted under the program, PHAs must perform a rent reasonableness determination in accordance with the section 8(o)(10) of the U.S. Housing Act of 1937 and the HCV program regulations. Therefore, PHAs who utilize this provision must maintain documentation that the PHA performed the required rent reasonableness analysis. In addition, the PHA must maintain documentation that that the unit has the feature(s) required to meet the needs of the person with disabilities.

4. **Adoption of Temporary Provisions:** A PHA that chooses to adopt any provisions described in this Notice must notify HUD by email at PIHTemporaryCompliance@hud.gov. This email should also include either the Field Office Public Housing Director or the Program Center Coordinator as a recipient.

Any temporary provision made available to a PHA under this Notice that a PHA elects to apply must be adopted in the PHA's HCV program administrative plan (24 CFR 982.54) or PH program tenant selection policies (24 CFR 960.202 and 960.257(c)). In cases where changes to policies are determined by the PHA to be an amendment to the PHA's Annual Plan that is significant, as defined by the PHA, the PHA must comply with the amendment provisions of 24 CFR 903.21, including soliciting public comment and consulting with the resident advisory board.

5. **Paperwork Reduction Act:** The information collection requirements contained in this Notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control numbers 2577-0220 and 0169. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.
6. **Further Information:** Any questions pertaining to this Notice may be addressed to Todd Thomas, (202)402-5849, or by electronic mail at Todd.C.Thomas@hud.gov about the Public Housing program or Caroline Crouse, (202)402-4595, or by electronic mail at Caroline.P.Crouse@hud.gov about the Housing Choice Voucher program.

/s/

Sandra B. Henriquez, Assistant Secretary for
Public and Indian Housing