

**MANDATORY USE OF EIV
FINAL RULE:
IMPLEMENTING INSTRUCTIONS**

APRIL 14, 2010

Department of Housing and Urban Development
(HUD), Office of Housing Assistance and Grant
Administration (HAGA)

Agenda

- Introduction
- Applicability
- Background
- Mandatory Use of EIV
 - Penalties
- SSN Disclosure and Verification Requirements

Agenda (cont)

- Exemptions
- Requirements for Applicants
- Requirements for Tenants
- Adding a Household Member
- Penalties for Failure to Disclose SSN
- Monitoring Concerns
- Questions

Applicability

- Project Based Section 8
 - New Construction
 - State Agency Financed
 - Substantial Rehabilitation
 - Section 202/8
 - Rural Housing Services
 - Section 515/8
 - Loan Management Set-Aside
 - Property Disposition Set-Aside
- Section 101 Rent Supplement
- Section 202/162 PAC
- Section 202 PRAC
- Section 811 PRAC
- Section 236
- Section 236 RAP
- Section 221(d)(3) BMIR

Background

- This final rule was drafted as a part of HUD's Rental Housing Integrity Improvement Project (RHIIP) which was based on the 2001 President's Management Agenda establishing a priority to reduce erroneous payments.

Background (cont)

- Reducing improper payments is again at the forefront of our current administration.
 - President Obama signed Executive Order 13520 in November 2009, addressing the improper payments issue.

Background (cont)

- After several versions of the rule, which were released and revised with public comment, the rule was published as final in the Federal Register on December 29, 2009.

Highlights

- **Mandatory Use of EIV and Penalties**
(24 CFR 5.233)
- **Social Security Number Disclosure**
(24 CFR 5.216)
- **Penalties for Failing to Disclose and Verify SSN or EIN**
(24 CFR 5.218)

MANDATORY USE OF EIV

24 CFR 5.233

Mandatory Use of EIV

- 24 CFR 5.233
 - O/As must use HUD's EIV system in its entirety:
 - As a third party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income and

Mandatory Use of EIV (cont)

- 24 CFR 5.233
 - O/As must use HUD's EIV system in its entirety (cont):
 - To reduce administrative and subsidy payment errors in accordance with HUD administrative guidance

Mandatory Use of EIV (cont)

- Effective January 31, 2010, it is mandatory that O/As use EIV:
 - At the time of recertification (annual and interim) of family composition and income
 - As specified in the most current Housing notice *Enterprise Income Verification (EIV) System*
 - As specified in the O/A's Tenant Selection Plan and Policies and Procedures

Mandatory Use of EIV (cont)

- All recertifications with an effective date of **June 1, 2010, and beyond** must reflect use of the EIV system.

Mandatory Use of EIV (cont)

- Recertifications with an effective date **before** June 1, 2010, must **NOT** be issued a finding during a MOR unless the O/A's policies and procedures required EIV use.

Mandatory Use of EIV (cont)

- The EIV system must be used in its entirety.
 - Using EIV only at recertification is not acceptable; it must be used at other times.
 - Refer to the most current Housing notice *Enterprise Income Verification (EIV) System*.

PENALTIES FOR NOT HAVING ACCESS TO AND/OR NOT USING EIV SYSTEM

Penalties for Not Having Access to and/or Not Using EIV System

- No Penalty Imposed If:
 - O/A applied for access by December 15, 2009, and
 - O/A completed the online request for certification by January 15, 2010

Penalties for Not Having Access to and/or Not Using EIV System (cont)

- To Avoid Penalty, O/A Must
 - Present a copy of the hardcopy CAAF and a copy of the online CAAF sent to the MF Helpdesk to verify date of application
 - Provide proof that they followed up with the MF Helpdesk
 - Begin implementing EIV immediately after receiving access

Penalties for Not Having Access to and/or Not Using EIV System (cont)

■ Penalties

- A penalty is imposed if the O/A did not receive access to the EIV system by January 31, 2010, due to not following the instructions provided in the RHIIP Listserv and iMAX messages.

Penalties for Not Having Access to and/or Not Using EIV System (cont)

- Penalties (cont)
 - O/A penalized a five percent decrease in voucher payment for the next scheduled voucher following the date the violation was found
 - Possible flag in HUD's Active Partners Performance System (APPS)

Penalties for Not Having Access to and/or Not Using EIV System (cont)

- Process for Imposing Penalties
 - CA must make finding on its report to the O/A.
 - O/A will incur a penalty of five percent in their voucher payment.
 - O/A must make adjustment on next scheduled voucher.
 - CA must monitor the O/A to ensure adjustment is made.

Penalties for Not Having Access to and/or Not Using EIV System (cont)

- Recapturing the Imposed Penalty
 - Once O/A cures finding, the O/A must make an adjustment to recoup the penalty imposed.

Penalties for Not Having Access to and/or Not Using EIV System (cont)

- Flag in APPS
 - O/A will be flagged in APPS if the O/A does not cure the finding within 30 days of receipt of their report
 - Flag will be removed when finding is cured

**SOCIAL SECURITY NUMBER
DISCLOSURE AND
VERIFICATION
REQUIREMENTS
24 CFR 5.216**

SSN Disclosure and Verification

- 24 CFR 5.216
 - Applicants and tenants must disclose and provide documentation to verify the complete and accurate SSN for each household member in order to receive assistance.

SSN Disclosure and Verification

- Two exemptions:
 - Individuals who do not contend eligible immigration status
 - Participants age 62 or older as of January 31, 2010, whose initial determination of eligibility was begun before January 31, 2010

Effect on Projects with Restriction on Assistance to Noncitizens

- The existing regulations pertaining to proration of assistance or screening for mixed families must continue to be followed.
- Assistance may not be denied to mixed families due to nondisclosure of a SSN by an individual who does not contend eligible immigration status.

Effect on Projects without Restriction on Assistance to Noncitizens

- 221(d)(3) BMIR, 202 PACS, 202 PRACS, 811 PRACS
 - Restriction of assistance to noncitizens does not apply to these programs.
 - Applicants/tenants who do not contend eligible immigration status must sign a certification to that effect.
 - This certification must be retained in the tenant file.

Age Exemption

- Participants age 62 or older as of January 31, 2010, whose initial determination of eligibility was begun prior to January 31, 2010
 - Determination based on:
 - Participation in either a Public and Indian Housing (PIH) program or Multifamily HUD assisted program
 - Initial effective date on either the form HUD-50059 or form HUD-50058

Age Exemption (cont)

- Exemption Status
 - Retained for life
 - Verified by obtaining date of initial determination of eligibility from the O/A of the property where individual was assisted prior to January 31, 2010
 - Tenant certification is not acceptable

Timeframe for Providing SSNs - Applicants

- Applicants must disclose and provide documentation to verify SSNs for all household members (except those exempt from the SSN requirements).
 - Before being housed from waiting list

Applicants Who Fail to Disclose SSN

- Applicant has 90 days from date they are offered a unit to disclose and/or provide documentation to verify all non-exempt household members' SSNs.

Applicants Who Fail to Disclose SSN (cont)

- Applicant may retain their position on waiting list during this time.
- After 90 days if SSN has not been disclosed and verified, the applicant should be determined ineligible and removed from the waiting list.

Applicants Who Fail to Disclose SSN (cont)

- The O/A must have policies and procedures in place for removing applicants from the waiting list to ensure consistency among all applicants.

Timeframe for Providing SSNs - Tenants

- Tenants must disclose and provide documentation to verify SSN.
 - At next interim or annual recertification if they have:
 - Not previously disclosed a SSN (unless exempt from SSN requirement)
 - Previously disclosed a SSN that was determined invalid
 - Been issued a new SSN

Tenants Who Fail to Disclose SSN

- Tenant's household is subject to termination of tenancy.

Adding a Household Member

- Age Six or Older
 - SSN must be disclosed and documentation to verify must be provided:
 - at the time of the request by O/A, or
 - at the time the recertification that includes the new household member is processed.

Adding a Household Member

- Age Six or Older (cont)
 - New member must not be admitted until SSN and verifying document is provided (unless exempt from SSN requirement).

Adding a Household Member (cont)

- Child Under the Age of Six
 - With a SSN
 - Child's SSN must be disclosed and documentation to verify provided at time of processing the recertification of family composition that includes the new household member.

Adding a Household Member (cont)

- Child Under the Age of Six (cont)
 - Without a SSN
 - Household will have 90 days to provide documentation of a SSN for the child.

Adding a Household Member (cont)

- Child Under the Age of Six (cont)
 - Without a SSN (cont)
 - Additional 90 days **must** be provided if not obtaining SSN is due to circumstances outside the control of the tenant
 - Examples include delay in processing by SSA, natural disaster, fire, death in family, etc)

Adding a Household Member (cont)

- Child Under the Age of Six (cont)
 - Without a SSN (cont)
 - During this time the child is to be included as part of the household (a temporary TRACS ID is assigned), and must receive all eligible benefits of the program including dependent deduction.

Adding a Household Member (cont)

- Child Under the Age of Six (cont)
 - Without a SSN (cont)
 - At the time of the disclosure of the SSN, an interim recertification must be processed changing the child's TRACS ID to the child's verified SSN.

Adding a Household Member (cont)

- Child Under the Age of Six (cont)
 - Without a SSN (cont)
 - If SSN is not provided within the timeframe specified, the household is subject to termination of tenancy.

PENALTIES FOR FAILURE TO DISCLOSE AND VERIFY SSN 24 CFR 5.218

Penalties for Non-disclosure of SSN

- Termination of tenancy due to noncompliance with their lease agreement
- No proration of assistance

Penalties for Non-disclosure of SSN (cont)

- Does not apply to those exempt from SSN requirements
 - Unless they are part of a family where non-exempt members have failed to comply

Deferring Termination of Tenancy

- Deferral is for 90 days past their recertification
- Provided at O/A discretion
 - Only if failure to meet SSN requirements is outside the control of participant
 - Examples - Applied to SSA but have not yet received, natural disaster, death in family, etc.

Deferring Termination of Tenancy (cont)

- After 90 days, O/A **must** pursue termination of tenancy.

Applying for a SSN

- For those who have never been issued a SSN or lost their SS card:
 - Complete Form SS-5 – *Application for a Social Security Card*
- Visit Social Security's website at www.ssa.gov

Applying for a SSN (cont)

- O/As should provide assistance to any applicant or tenant who requests it.

Verifying a SSN

- The SSN verification documents have not changed from those found in HUD Handbook 4350.3 REV-1 *Occupancy Requirements of Subsidized Multifamily Housing Programs*.

Updating Documents

- Tenant Selection Plan
 - Changes in SSN requirements
 - Use of the EIV Existing Tenant Search when screening applicants

Updating Documents (cont)

- Policies and Procedures
 - Use reports at recertifications
 - As required by the most current Housing Notice *Enterprise Income Verification System*
 - At times outlined by the O/A

Completing MOR Report MOR Findings

| What is considered a MOR Finding? (Mandatory Use of EIV) | |
|---|---|
| 1. | O/A does not have access to EIV |
| 2. | O/A is not using EIV for recertifications effective June 1, 2010 |
| 3. | Missing/incomplete EIV documents as listed on the Addendum C. (Email HUD Headquarters immediately to Terminate the coordinator's/user's access at the following address: mfeiv_alert@hud.gov) <ul style="list-style-type: none">•Name, property MOR date, and missing documentation.•Advise O/A mitigate and Contact CA to reinstate Access. |
| 4. | Rules of Behavior for non-system users missing where applicable |
| 5. | EIV data being shared with other entities, e.g., state officials monitoring tax credit projects, Rural Housing staff monitoring Section 515 projects, or Service Coordinators |
| 6. | EIV data not kept secure |

Completing MOR Report Effective January 31, 2010 (cont)

| What is considered a MOR Finding? (Mandatory Use of EIV) | |
|---|---|
| 7. | O/A has not updated Policies and Procedures to include EIV use. |
| 8. | O/A has not updated Tenant Selection Plan to include use of Existing Tenant Report |
| 9. | EIV Income Reports are not in tenant files as third party verification |
| 10. | Tenant files do not have documentation to support EIV income discrepancy resolution |
| 11. | O/A is not using Existing Tenant Search Report |
| 12. | O/A is not reviewing New Hires Report |
| 13. | Unresolved Failed Verification and Pre-screening discrepancies |
| 14. | Deceased Tenant Report has not been reviewed and errors corrected |

Completing MOR Report Effective January 31, 2010 (cont)

| What is considered a MOR Finding? (Mandatory Use of EIV) | |
|---|---|
| 15. | Multiple Subsidy Report has not been reviewed and errors corrected |
| 16. | O/A is not following HUD's record retention requirements |
| 17. | Missing/Incomplete form HUD-9887 |
| 18. | O/A is not providing tenants with the EIV & You brochure at move-in stage and recertification |
| 19. | Individuals with access to EIV system or EIV data have not completed annual Security Awareness Training . |
| 20. | O/As sharing access IDs and passwords |

Preparing for MOR (cont)

ADDENDUM C
OMB Approval No. 2502-0178
Exp. 11/30/2011

DOCUMENTS TO BE MADE AVAILABLE BY OWNER/AGENT

Instructions: Reviewers should place a check mark next to those items that must be available for review.

General Documents

- All Tenant Files and records (including rejected, transfer and move-out files)
- Current waiting list
- Last advertisement and/or copies of apartment brochures
- HUD-approved Rent Schedule (HUD-92458)
- Procurement Files
- Work Order Journals/Logs
- All Operating Procedure Manuals
- Documentation for Elderly Preferences Under Sections 651 or 658
- Income Targeting Tracking Log
- List of all current Principals and Board Members
- Other

Civil Rights Front End Limited Monitoring and Section 504 Review Documents

- Affirmative Fair Housing Marketing Plan

Preparing for MOR (cont)

- Addendum C

- Add the following EIV documents:

- EIV Coordinator Access Authorization Form(s)
(signed Initial copy and current copy)
 - EIV User Access Authorization Form(s)
(signed Initial copy and current copy)

- ❖ (Rules of Behavior and User Agreement and Certifications are part of the Initial CAAF & UAAF)

Preparing for MOR (cont)

- Addendum C
 - Add the following EIV documents
 - EIV Owner Approval Letter(s)
 - Rules of Behavior (for individuals without access to the EIV system)

Replacement CAAF



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

To whom it may concern,

This document serves as evidence that the below named Multifamily Housing EIV Coordinator has been approved by a HUD EIV Administrator to access the Enterprise Income Verification (EIV) System and has signed the Rules of Behavior, and User Agreement and Certification which was a part of the initial Coordinator Access Authorization Form (CAAF). Copies of the initial approved CAAF, Rules of Behavior and User Agreement and Certification have been lost or destroyed.

| | |
|---|----------------------|
| Coordinator Name (last, first, and middle initial): | WASS User ID (M-ID): |
|---|----------------------|

EIV access is limited to the Project Names and Project/Contract Numbers listed below:

| Project Number | Contract Number | Project Name |
|----------------|-----------------|--------------|
| 1) | 1) | 1) |
| 2) | 2) | 2) |
| 3) | 3) | 3) |
| 4) | 4) | 4) |
| 5) | 5) | 5) |

Or on the attached sheet if checked:

This document will serve to satisfy requirements of maintaining a copy of the initial approved CAAF, signed Rules of Behavior and User Agreement and Certification. EIV Coordinator will maintain this document on site and make available for review by HUD/CA staff upon request.

INTERNAL HUD USE ONLY: TO BE COMPLETED BY THE HUD EIV USER ADMINISTRATOR

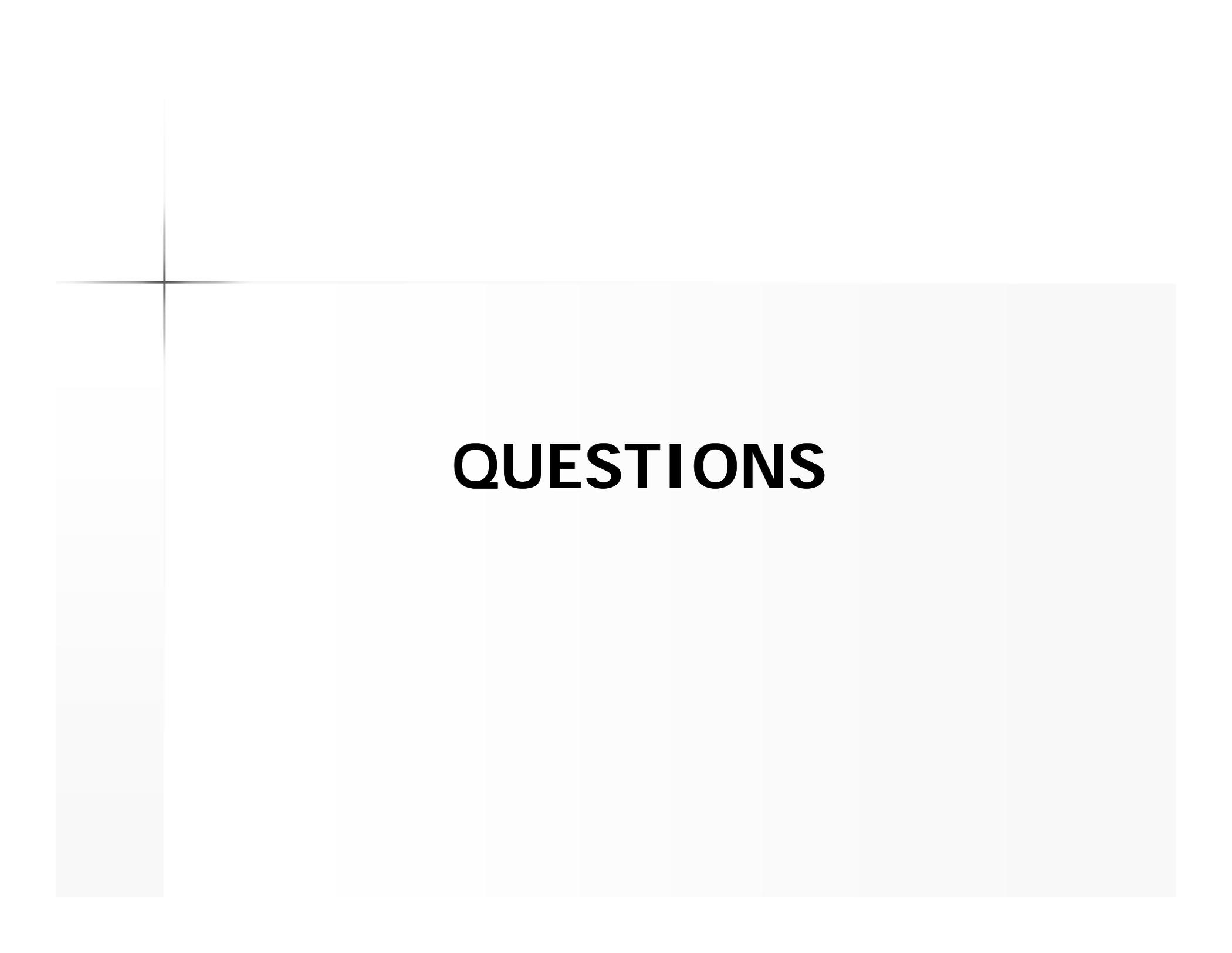
I, as User Administrator, authorize the above person to have access to the EIV system, as indicated by my signature below.

Signature _____ Date _____

Location of User Administrator (check that which applies):

| | |
|--|---|
| <input type="checkbox"/> Multifamily EIV Helpdesk Contact Number: | <input type="checkbox"/> HQ User Administrator Contact Number: |
|--|---|

www.hud.gov egsa@hud.gov



QUESTIONS

Question

- Participants age 62 and older as of January 31, 2010, whose initial determination of eligibility was begun prior to January 31, 2010, are exempt. Will these individuals show up on the Failed Verification Report? The Multiple Subsidy Report?

Question

- Are applicants age 62 and older as of January 31, 2010, exempt from the SSN requirements?

Question

- If a parent fails to supply proof of a Social Security number for a new born with the grace period allowed, does the market rate go effective the first of the following month or does it retro back to the time the baby was listed on the 50059?

Question

- Can O/As place a household on the waiting list without the Head of Household's SSN? Is HUD requiring the O/A's Tenant Selection Plan to be revised to include the new wait list placement provision?

Question

- If the income report indicates the tenant made more money than reported on the 50059 (quarterly wage information) but there is no income discrepancy report, should we process a corrected 50059 based on the information on the income report (after verification) or wait for the discrepancy report to catch up to the information?

Question

- If we certify retroactively causing the tenant to have a high balance and they leave without paying, we will continue to pursue payment via a collection agency, however, if no funds are received, are special claims available?

Question

- Are we as an O/A required to do an EIV report and retain it on every recertification? Do we have to run EIV reports on interim recertifications as well?

Question

- Do we have to retain EIV reports that do not represent any income or just those that include an income figure?

Question

- Do the exemptions to the SSN requirements only apply if no SSN has ever been assigned?

Question

- When a SSN is not provided, is it acceptable to use all 9s in the SSN fields of the 50059?

Question

- When a SSN is not available, the O/A uses all 9s in the SSN fields. This returns a Failed Pre-screening error in EIV. Should the O/A print the error and indicate that the information is not provided because the household member is exempt from the SSN requirement?

Question

- The Federal Register indicates that “PHAs and O/As must notify the affected households of this policy”. Does this mean that all applicants on the waiting list and all residents should be sent a notice explaining the change in the eligibility requirements since they may be affected currently or if the household composition changes?

Question

- We are getting MOR findings for not having an initial CAAF signed by HUD. I showed our reviewer the email we received that approved the CAAF but we were told we need the signed copy.

Question

- At the tenant's request, can an O/A provide a printout that contains EIV data to the tenant?

Question

- The December 2009, webcast stated that EIV could be used as third party verification of receipt of Social Security and for calculation. We are still being asked to provide copies of the tenant's award letter to support EIV. Must we still provide the award letters?

Question

- Is the tenant's signature on the 50059 enough proof that the tenant agrees with the EIV number for Social Security payments or is it necessary to have another document, such as the tenant's SSA award letter, in the file?

Question

- Are all subsidy overpayment recoveries subject to the five year limitation or just the overpayments discovered through EIV?

**PLEASE SUBMIT ANY EIV POLICY
QUESTIONS OR CONCERNS TO:**

MF_EIV_COMMENTS@HUD.GOV