



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

---

### SPECIAL ATTENTION OF:

Public Housing Agency Directors  
Public Housing Hub Office Directors  
Public Housing Field Office Directors

### NOTICE PIH 2016-05 (HA)

Issued: April 7, 2016

This notice remains in effect until amended, superseded, or rescinded

---

**Subject:** Streamlining Administrative Regulations for Programs Administered by Public Housing Agencies

- (1) **Purpose.** This Notice presents implementation guidance for provisions included in the regulation titled “Streamlining Administrative Regulations for Public Housing, Housing Choice Voucher, Multifamily Housing, and Community Planning and Development Programs,” also known as the “streamlining rule.” This Notice addresses provisions only as they apply to programs administered by public housing agencies (PHAs).
- (2) **Background.** Published on March 8, 2016, the final streamlining rule contains 16 provisions. All of the provisions touch on programs administered by HUD’s Office of Public and Indian Housing; some of the provisions apply as well to multifamily programs administered by HUD’s Office of Housing and/or HUD’s Office of Community Planning and Development. The background section of the rule explains in detail how the provisions were selected for inclusion in the rule.

While some of the provisions included in the final rule are fairly simple and therefore require no implementation guidance, others are less straightforward and require further implementation guidance. This Notice addresses each provision and either provides implementation guidance directly or refers the reader to other implementation resources.

- (3) **Applicability to Moving to Work (MTW) Agencies.** This Notice applies generally to MTW agencies. With respect to individual MTW agencies, any specific regulatory provision that is addressed in this Notice and has been waived as part of the agency’s approved Annual MTW Plan does not apply to that agency.
- (4) **Structure.** This Notice presents each provision as a separate attachment. Each attachment follows a uniform structure:
  - (a) Regulation;

- (b) Programs to which the provision applies;
- (c) Description of change;
- (d) Background;
- (e) Whether adoption of the change is mandatory or at the discretion of the public housing agency. If a PHA adopts a provision that is addressed in its Admissions and Continued Occupancy Policy (ACOP) and/or Administrative Plan (Admin. Plan), then the PHA must amend its ACOP/Admin. Plan prior to implementing the provision. If adoption of a provision constitutes a significant amendment to a PHA’s Plan according to the PHA’s definition of a significant amendment, then the PHA must complete a significant amendment to the PHA Plan as described in 24 CFR 903.21.
- (f) Effective date. For any provision that requires a PHA to update its ACOP and/or Admin. Plan or that requires a significant amendment to the PHA Plan, a PHA must begin the process of updating its ACOP/Admin. Plan or begin the significant amendment process as soon as possible following the publication of this final rule so that the provision may be implemented as soon as possible following the effective date of the provision.

(5) **Summary chart.** The chart below lists each of the attachments to this Notice, showing, for each provision, whether its adoption is mandatory or at the discretion of the PHA.

Attachment	Provision	Mandatory or Discretionary
A	Verification of Social Security Numbers	mandatory
B	Definition of extremely low-income families	mandatory
C	Exclusion of mandatory education fees from income	mandatory
D	Streamlined annual reexamination for fixed sources of income	discretionary
E	Earned income disregard	mandatory
F	Family declaration of assets under \$5,000	discretionary
G	Utility reimbursements	discretionary
H	Public housing rents for mixed families	mandatory
I	Tenant self-certification for Community Service and Self-Sufficiency Requirement	discretionary
J	Public housing grievance procedures	discretionary

K	Biennial inspections and the use of alternative inspection methods	discretionary
L	Housing Quality Standards reinspection fee	discretionary
M	Exception payment standards for providing reasonable accommodations	discretionary
N	Family income and composition: regular and interim examinations	discretionary
O	Utility payment schedules	mandatory

- (6) **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. 3520) and assigned OMB control numbers 2577-0220 and 0169.

HUD is submitting a Paperwork Reduction Act (PRA) request to OMB. With an approval and PRA number, PHAs may submit requests to use an alternative inspection method to: Deputy Assistant Secretary, Real Estate Assessment Center, 550 12<sup>th</sup> Street SW, Washington, DC 20410. REAC anticipates a review period of up to 90 days from the date of the receipt of the request, without presumption of approval if REAC does not respond to the PHA within 90 days.

/s/

---

Principal Deputy Assistant Secretary  
Lourdes Castro Ramírez

## **Attachment A: Verification of Social Security Numbers**

Regulation: 24 CFR §5.216

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher), public housing, Section 8 Moderate Rehabilitation

Description of change: This provision modifies the regulation as it applies to program *applicants* (as differentiated from program *participants*). The change creates a 90-day period during which an applicant family may become a program participant, even if the family lacks the documentation necessary to verify the Social Security Number (SSN) of a family member under the age of 6 years. An extension of one additional 90-day period must be granted if the PHA determines that, in its discretion, the applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside of the control of the applicant. For example, an applicant may be able to demonstrate timely submission of a request for an SSN, in which case processing time would be the cause of the delay. If the applicant family does not produce the required documentation within the authorized time period, the PHA or processing entity must impose appropriate penalties, in accordance with 24 CFR 5.218.

In terms of offering a grace period and an extension, if merited, a PHA will implement this provision just as it currently implements the provision for program participants. Specifically, an applicant family with a child under the age of 6 years may become a participant family, even if the SSN for the child has not been verified at the time of admission. If the SSN has still not been verified at the end of the initial 90-day period, then the PHA must determine whether a 90-day extension is merited. If it is not merited, then the PHA must follow the provisions of 24 CFR 5.218. If a 90-day extension is merited, then the PHA must either verify the SSN for the child by the end of the 90-day extension period or follow the provisions of 24 CFR 5.218.

Background: This change brings the guidance for applicants more closely in line with longstanding guidance for program participants (at 24 CFR 5.216(e)(2)(ii)). For applicants, the change is slightly more flexible, requiring at least one 90-day grace period if the SSN has not been *verified* (for program participants, the standard is that the SSN has not been *assigned*). Program staff, in considering the change, determined that greater flexibility could make a difference for applicant families who adopt a child or add a foster child within the 6-month period preceding their admission to the program; such a child may already have been assigned a SSN, but there may be circumstances that make it difficult for the adoptive or foster family to obtain the documentation in a timely fashion.

Mandatory or discretionary: Mandatory

Effective date: April 7, 2016

## **Attachment B: Definition of extremely low-income families**

Regulation: 24 CFR §§5.603, 903.7, and 960.102

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher), public housing, Section 8 Moderate Rehabilitation

Description of change: These regulations have been revised to reflect the new statutory definition of an extremely low-income (ELI) family. Section 238 of HUD's FY 2014 Appropriations Act<sup>1</sup> amended Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a) to define ELI families as very low-income families whose income does not exceed the higher of 30 percent of the area median income or the federal poverty level. The federal poverty level provision in the definition of ELI families does not apply in the case of public housing agencies or projects located in Puerto Rico or any other territory or possession of the United States.

Background: Previously, there was no statutory definition of ELI families, and the regulatory definition did not take the federal poverty level into consideration. The adoption of a statutory definition that takes the federal poverty level into account is intended to increase access to HUD rental assistance for working-poor families in areas where median incomes are so low that a family with a full-time worker may have an income that exceeds 30 percent of the area median income, even though the family's income is below the federal poverty level. The revised definition ensures that such a family will not be skipped over on the waiting list as a result of the ELI admission targeting requirements in the public housing and Housing Choice Voucher programs. For the public housing program, not less than 40 percent of the units that become available per PHA fiscal year must be made available for occupancy by ELI families. For the HCV program, not less than 75 percent of new admissions from the PHA waiting list during the PHA fiscal year must be ELI families.

HUD determines the ELI limits for all areas in the United States annually. New Housing Choice Voucher and public housing income limits are generally issued in March. The ELI limits are available at the following Web site: <https://www.huduser.gov/portal/datasets/fmr.html>.

PHAs do not need to research the federal poverty level to comply with the ELI definition, since the HUD-published ELI dollar amounts are calculated in accordance with the new definition and reflect the higher of 30 percent of area median income or the federal poverty level for the metro area or non-metropolitan county. The ELI limits for each metropolitan area and non-metro county are listed by dollar amount and family size. When calculating the ELI limits, HUD uses the poverty guidelines issued by the Department of Health and Human Services for the 48 contiguous states and the District of Columbia (lower 48 states), Alaska, and Hawaii.

In some communities with very low median incomes, the federal poverty level may equal or exceed the very low-income (VLI) limit for some or all household sizes. (In general, a VLI family is defined as a family whose income does not exceed 50 percent of the area median income.) In these relatively rare instances, the ELI limit is set at the VLI limit, and consequently any family whose income meets the VLI limit also qualifies as an ELI family. From a practical

---

<sup>1</sup> HUD's 2014 Appropriations Act is Title II of Division L of Public Law 113-76, 128 Stat. 5, approved January 17, 2014.

standpoint, in these rare circumstances, this simply means that a VLI/ELI family who is admitted to the HCV or public housing program counts as an ELI family for ELI targeting requirements.

Mandatory or discretionary: Mandatory

Effective date: This provision has been in effect since July 1, 2014. (See *Federal Register* Notice 79 FR 35940, “HUD Implementation of Fiscal Year 2014 Appropriations Provisions on Public Housing Agency Consortia, Biennial Inspections, Extremely Low-Income Definition and Utility Allowances”).

## Attachment C: Exclusion of mandatory education fees from income

Regulation: 24 CFR §5.609(b)(9)

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher), public housing, Section 8 Moderate Rehabilitation

Description of change: This provision amends the definition of “income” to exclude from calculations of individual income any financial assistance received for mandatory fees and charges (in addition to tuition). Notice PIH 2015–21 provides guidance as to what constitutes such fees. The notice discusses the definitions of tuition and fees used by the Department of Education, provides examples on calculating income, and explains how to verify fee information.

For the *public housing program*, there is no change. The example below shows how financial assistance is treated in the public housing program.

Kim, a 22 year–old, married, participant in the public housing program, is enrolled in a nursing program at her local community college. She is receiving \$7,000 in financial assistance to cover the full cost of tuition and fees of \$6,000 for the academic year. The \$6,000 includes:

- \$2,500 in tuition per semester (total \$5,000) *plus*
- \$500 in individual fees (total \$1,000)—athletic fee, writing laboratory fee, student center fee, science laboratory fee, technology fee—charged to every student per semester.

In this example, the full amount of financial assistance Kim receives (\$7,000) while participating in the program continues to be excluded from her annual income pursuant to 24 CFR § 5.609(c)(6).

For *section 8 programs* (HCV, PBV, Sec. 8 Mod. Rehab.), the amended definition of “income” may result in a change in how such income is calculated, as explained in the example below:

Kim, a 22 year–old, married, participant in a section 8 program, is enrolled in a nursing program at her local community college. She is receiving \$7,000 in financial assistance to cover the full cost of tuition and fees of \$6,000 for the academic year. The \$6,000 includes:

- \$2,500 in tuition per semester (total \$5,000) *plus*
- \$500 in individual fees (total \$1,000)—athletic fee, writing laboratory fee, student center fee, science laboratory fee, technology fee—charged to every student per semester.

In this example, the excess \$1,000 (\$7,000 – \$6,000) Kim received in financial assistance will be included in her annual income in accordance with 24 CFR 5.609(b)(9).

Under HUD’s previous definition of tuition, Kim’s housing authority might have considered her income from financial assistance in excess of tuition to be \$2,000 (excess of \$1,000, as calculated above, plus total fees of \$1,000) if her college’s definition of tuition did not

include fees. Under HUD's new definition, Kim's housing authority will determine her excess financial assistance to be \$1,000 rather than \$2,000, because the required fees and charges are included with tuition.

Background: Many institutions of higher education have moved from a traditional, tuition-only structure to a new tuition-and-fee structure. Fees often include, but are not limited to, student service fees, student association fees, student activities fees, and laboratory fees. HUD believes that inclusion of many of these required fees within the definition of tuition will increase opportunities for its participants to further their education.

Mandatory or discretionary: Mandatory

Effective date: April 7, 2016



## **Attachment D: Streamlined annual reexamination for fixed sources of income**

Regulation: 24 CFR §§960.257, 982.516

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher), public housing

Description of change: This provision offers PHAs the discretion to adopt a streamlined income determination for any family member with a fixed source of income. Note that the family member may also have non-fixed sources of income, which remain subject to third-party verification. Upon request of the family, the PHA must perform third-party verification of all income sources. Note that this provision pertains only to the verification of sources of income; PHAs must continue to conduct third-party verification of deductions.

For purposes of this Notice, the term “fixed-income” includes income from:

- Social Security payments, to include Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI);
- Federal, state, local, and private pension plans; and
- Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic payments.

The determination will be made by applying a verified cost of living adjustment (COLA) or current rate of interest to the previously verified or adjusted income amount. The COLA or current interest rate applicable to each source of fixed income must be obtained either from a public source or from tenant-provided, third-party generated documentation. In the absence of such verification for any source of fixed income, third-party verification of income amounts must be obtained.

This provision is available for program participants only and may be implemented at the family’s next annual reexamination following adoption of the provision in the PHA’s ACOP or Admin. Plan. The provision is not available for program applicants; in the initial year in which a streamlined income determination is made, the COLA must be applied to a source of income that has been verified previously.

In the initial year of employing a streamlined income determination, a PHA must determine whether a source of income is fixed. A PHA may do this by comparing the amount of income from the source to the amount generated during the prior year. If the amount is the same or if it has changed only as a result of a COLA or due to interest generated on a principal amount that remained otherwise constant, then the source is fixed. A PHA may also make such a determination by requiring a family to identify as to which source(s) of income are fixed. A PHA must document in the tenant file how it made the determination that a source of income is fixed.

For the second income determination involving a family member whose income was adjusted previously using a streamlined income determination, the adjustment would be made to the previously determined income amount (i.e., in year two, the COLA is applied to the year one

income amount, as previously adjusted by a COLA). For any family member whose income is determined pursuant to a streamlined income determination, *third-party verification of all income amounts for all family members must be performed at least every three years*. This means that, for the third income determination involving a family member whose income had been adjusted twice using a streamlined income determination, the PHA would need to obtain third-party verification of *all* income amounts. This also means that if a family member with a fixed-income source is added to the family during year two, for example, then the PHA must obtain third-party verification of all income amounts for that family member at the next reexamination if the PHA wishes to have all family members with fixed incomes on the same schedule with respect to streamlined annual reexaminations.

Example: Streamlined income determination for program participant’s first reexamination following PHA’s adoption of provision

	<b>Under previous regulation</b>	<b>Under this regulation</b>
January 2016 — baseline year	<p>Carl’s income consists of 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must verify all income amounts using third-party verification.</p>	(not yet implemented)
January 2017	<p>Carl’s income consists of 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must verify all income amounts using third-party verification.</p>	<p>Carl’s income is reported to be 90% fixed sources and 10% non-fixed sources</p> <p>The PHA must compare the amount of income from the fixed sources to the amount generated during the prior year; if the amounts are the same or if they have changed only as a result of the application of a COLA or due to interest generated on a principal amount that remained otherwise constant, then the amounts are fixed.</p> <p>The PHA may adjust the fixed sources by a COLA or current interest rate obtained from a public source or from tenant-provided, third-party generated documentation.</p> <p>The PHA must verify the non-fixed amounts using third-party verification</p>
January 2018	<p>Carl’s income consists of 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must verify</p>	<p>Carl’s income is reported to be 90% fixed sources and 10% non-fixed sources</p> <p>The PHA may adjust the fixed sources by a COLA or current interest rate obtained from a public source or from tenant-</p>

	all income amounts using third-party verification.	provided, third-party generated documentation.  The PHA must verify the non-fixed amounts using third-party verification
January 2019	Carl's income consists of 90% fixed sources and 10% non-fixed sources.  The PHA must verify all income amounts using third-party verification.	Carl's income is reported to be 90% fixed sources and 10% non-fixed sources  The PHA must verify all income amounts using third-party verification.

Background: Existing guidance (Notice PIH 2010–19) explains how to identify and verify existing sources of income using HUD’s Enterprise Income Verification system. Non-fixed sources of income remain subject to full income-verification requirements. For example, if a family member has both fixed and non-fixed sources of income, this provision may be applied only to the fixed sources of income.

Mandatory or discretionary: Discretionary. Prior to adopting streamlined income determinations, PHAs must amend any policies governing income determinations to identify the sources of income that will be considered eligible for a streamlined income determination. Note: A PHA that adopts this provision must continue to obtain family member signatures on the consent forms required by 24 CFR 5.230, as if this provision had not been adopted.

Effective date: April 7, 2016

## Attachment E: Earned income disregard

Regulation: 24 CFR §§5.617, 960.255

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher), public housing

Description of change: The new regulatory provisions limit to 24 straight months the time period during which a family member is eligible to receive the benefit of the earned income disregard (EID), which streamline the administration of the EID by eliminating the requirement for PHAs to track family member changes in employment over a 4-year period. There are no changes to EID eligibility criteria, the benefit amount of the EID, the single lifetime eligibility requirement, or the ability of the applicable family member to stop and restart employment during the eligibility period.

Under the previous regulations, families were eligible to receive the EID benefit for no more than 24 months, which could be spread across a 48-month time period to account for potential changes in the employment status of the family member whose original employment caused the family to be eligible for EID. PHAs were required to track the employment of such family members and stop and start the EID benefit accordingly. The final rule provides:

- Once a family member is determined to be eligible for the EID, the 24–calendar month period starts;
- If the family member discontinues the employment that initially qualified the family for the EID, the 24–calendar month period continues;
- During the 24–calendar month period, EID benefits are recalculated based on changes to family member income and employment (no change from current practice);
- During the first 12–calendar month period, a PHA must exclude all increased income resulting from the qualifying employment of the family member. After the first 12–calendar month period, the PHA must exclude from annual income of the family at least 50 percent of any increase in income of such family member as a result of employment over the family member’s income before the qualifying event (i.e., the family member’s baseline income);
- The EID benefit is limited to a lifetime 24-month period for the qualifying family member;
- At the end of the 24 months, the EID ends regardless of how many months were “used.”

Example: Illustration of differences between previous and new EID implementing regulations

	<b>EID under previous regulation</b>	<b>EID under this regulation</b>
January 2017 (month one)	Carl begins working and is eligible for EID.  100% of Carl’s increase in earned income is excluded.	Carl begins working and is eligible for EID.  100% of Carl’s increase in earned

		income is excluded.
July 2017 (month seven)	Carl is laid off. EID “clock” stops.	Carl is laid off. EID “clock” continues to run.
January 2018 (month 13)		Carl’s second 12-month period begins.
February 2018 (month 14)	Carl begins working again. 100% of the increase in earned income due to Carl’s employment is excluded.	Carl begins working again. 50% of the increase in earned income due to Carl’s employment is excluded.
July 2018 (month 19)	Carl’s second 12-month period begins. 50% of the increase in earned income due to Carl’s employment is excluded.	
December 2018 (month 24)		This is the final month during which Carl receives his EID benefit.
June 2019 (month 30)	Carl has benefited from the EID for 24 months total. This is the final month during which Carl receives his EID benefit.	

Families that currently benefit from the EID, or who become eligible prior to the effective date of changes to the ACOF/Admin. Plan/PHA Plan, are eligible to receive the EID benefit for 24 months over a 48-month period, as was in effect prior to the effective date of this provision.

PHAs are advised to notify all participants and applicants who are eligible for the EID of their eligibility.

Background: The earned income disregard is designed to promote self-sufficiency for certain families in public housing and families with disabilities in the HCV program who meet the definition of a “qualified family.” This provision does not change the eligibility criteria for EID or how the EID benefit is calculated. For information about the EID, please see the HCV or Public Housing Occupancy Guidebooks.

Mandatory or discretionary: Mandatory

Note that PHAs operating the public housing program have the discretion to establish income exclusions beyond what is required of the EID, for the public housing program. As such, a PHA could establish alternative EID requirements to encourage employment among public housing

program participants, but these requirements may not be more restrictive than the minimum EID benefit required under 24 CFR §§5.617, 960.255.

Effective date: May 9, 2016

## **Attachment F: Family declaration of assets under \$5,000**

Regulation: 24 CFR §§960.259, 982.516

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher), public housing

Description of change: Under this provision, a PHA must obtain third-party verification of all family assets upon admitting a family to the HCV or public housing program and then again at least every 3 years thereafter. During the intervening annual reexaminations, a PHA has the discretion under this provision to accept a family's declaration that it has total net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration. If a family submits such a declaration, then the PHA does not need to request supporting documentation (e.g., bank statements) to verify the assets or the amount of income expected to be received from those assets. The family's declaration of total assets must show each asset and the amount of income expected from that asset. The total amount of income expected from all assets must be less than or equal to \$5,000. The total amount of the expected income from assets will be the family's "final asset income," and must be entered in field 6j of Form HUD-50058.

A PHA may obtain a family's declaration of assets under \$5,000 at the family's next interim or annual reexamination following adoption of the provision in the PHA's ACOP or Admin. Plan.

PHAs are required to have all family members 18 years of age and older sign the family's declaration of total assets. For ease of implementation, a PHA may wish to require families to submit a declaration of assets along with the consent forms that are required pursuant to 24 CFR 5.230. A family that knowingly submits false information is subject to a civil penalty, plus damages, under the False Claims Act (31 U.S.C. 3729).

Whenever a family member is added, a PHA must obtain third-party verification of that family member's assets. At the next annual reexamination of income following the addition of that family member, a PHA must obtain third-party verification of all family assets if the addition of that family member's assets puts the family above the \$5,000 asset threshold. If the addition of that family member's assets does not put the family above the \$5,000 asset threshold, then the PHA is not required to obtain third-party verification of all family assets at the next annual reexamination of income following the addition of the family member; however, third-party verification of all family assets is required at least every 3 years.

If a PHA adopted the self-certification of assets provision in Notice PIH 2013-03 and wishes now to adopt the provision described in this Notice, then the PHA must obtain third-party verification of all assets of any family at the family's next income redetermination if that family has provided self-certification of assets for the two previous income redeterminations.

Background: The requirement to verify assets is time-consuming for PHAs and families. In addition, assets of \$5,000 or less have little to no effect on family rental payments. This provision is intended to alleviate the burden on PHAs and families of verifying such assets; it also brings the HCV, PBV, and public housing programs in line with Internal Revenue Service guidance for the federal Low Income Housing Tax Credit program. For the LIHTC program,

housing credit agencies and owners are permitted to accept a certification from families that their assets do not exceed \$5,000.

Mandatory or discretionary: Discretionary

Effective date: April 7, 2016



## Attachment G: Utility reimbursements

Regulation: 24 CFR §§960.253, 982.514

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher), public housing

Description of change: This provision permits PHAs to make utility reimbursement payments quarterly, rather than monthly, if the total quarterly reimbursement payment due to a family is equal to or less than \$45 per quarter. PHAs may make reimbursement payments retroactively or prospectively. A PHA that adopts this provision, and chooses to make reimbursement payments retroactively, must permit a family to request a hardship exemption, in accordance with 24 CFR 5.630(b)(2). If a family receives a hardship exemption, then the PHA may either reimburse the family on a monthly basis or it may make *prospective* payments to the family, on a quarterly basis.

Quarterly payments must be made at least once per calendar quarter. Prospective payments must be made prior to the start of each quarter; retroactive payments must be made before the end of each quarter, as shown below.

Time period covered by payment	PHA Must Make the Reimbursement Available to the Family No Later Than	
	Prospective	Retroactive
January – March	December 31	March 31
April – June	March 31	June 30
July – September	June 30	September 30
October – December	September 30	December 31

The process for determining the utility reimbursement amount and the ability of PHAs to pay the family or the utility provider directly are not affected by this provision. Nor does the provision affect a PHA's ability to make reimbursements via electronic deposit.

Upon admission to the program or at recertification, the staff person completing Form HUD-50058 will note whether the utility reimbursement is \$15 per month or less. If it is, then the PHA must inform the family whether reimbursement will be retroactive or prospective on a quarterly basis. If the PHA's policy is to reimburse retroactively, then the PHA must also inform the family that they may request a hardship exemption. If the family requests and receives a hardship exemption, then the PHA may either reimburse the family on a monthly basis or it may make prospective payments on a quarterly basis.

If a family leaves the program with an outstanding credit from the PHA for a utility reimbursement, the PHA shall reconcile the credit with the family prior to the expiration of the lease. Please note that, under the HCV program, a family may remain in the unit after leaving the

program. The expiration of the lease does not therefore impact when the PHA reconciles the credit with the family. Reconciliation should take place when the HAP contract terminates or shortly thereafter (i.e., no later than 30 calendar days after HAP contract termination).

Background: Prior to issuance of this regulation, utility reimbursements of any amount were required to be paid monthly.

Mandatory or discretionary: Discretionary. Prior to adopting this quarterly reimbursement provision, a PHA must amend any policies governing rental payments. The policy must state whether the PHA will make quarterly payments retroactively or prospectively. If the PHA will make payments retroactively, then the policy must state whether the PHA's hardship exemption will take the form of monthly reimbursement or quarterly prospective payment. The policy must include a statement about how the PHA will reconcile any outstanding reimbursement due to a family if the family leaves the program.

Effective date: April 7, 2016

## **Attachment H: Public housing rents for mixed families**

Regulation: 24 CFR §5.520(d)

Program to which this provision applies: Public housing

Description of change: This provision changes the methodology for calculating public housing rents for mixed families by requiring PHAs to use the established flat rent applicable to the units. Currently, PHAs use the more complicated system to calculate prorated rent for families by requiring PHAs to determine the maximum rent by establishing the 95<sup>th</sup> percentile of all total tenant payments (TTP) for each bedroom size. Further, this rule eliminates an error in the current regulations and in HUD's PIC system which incorrectly reduces the rent of some mixed-families below their TTP. A mixed family is a family whose members include those with citizenship or eligible immigration status *and* those without citizenship or eligible immigration status.

Under this rule, PHAs must complete the following steps:

- Step 1. Determine the total tenant payment in accordance with 24 CFR §5.628. (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)
- Step 2. Family maximum rent is equal to the applicable flat rent for the unit size to be occupied by the family.
- Step 3. Subtract the total tenant payment from the family maximum rent. The result is the maximum subsidy for which the family could qualify if all members were eligible ("family maximum subsidy").
- Step 4. Divide the family maximum subsidy by the number of persons in the family (all persons) to determine the maximum subsidy per each family member who has citizenship or eligible immigration status ("eligible family member"). The subsidy per eligible family member is the "member maximum subsidy."
- Step 5. Multiply the member maximum subsidy by the number of family members who have citizenship or eligible immigration status ("eligible family members"). The product of this calculation is the "eligible subsidy."
- Step 6. The mixed family TTP is the maximum rent minus the amount of the eligible subsidy.
- Step 7. Subtract any applicable utility allowance from the mixed family TTP. The result of this calculation is the mixed family tenant rent.

When the mixed family's TTP is greater than the maximum rent, the PHA must use the TTP as the mixed family TTP. . Note: A warning message will appear when the family's TTP is entered into field 10p of PIC. This warning message is a workaround for purposes of implementing this provision.

This method of prorating assistance applies to new admissions and annual reexaminations after the effective date of the regulation.

The following tables provide examples of the impact of this provision.

Example 1: Family of 4 with an annual income of \$20,000, and one family member that is not eligible to receive subsidy. The 95<sup>th</sup> percentile TTP is \$548 while the flat rent is \$600. The applicable utility allowance is \$100 per month.

Steps	Previous Requirements	Requirements in Streamlining Rule
Step 1: Determination of TTP	\$500	\$500
Step 2: Determination of Maximum Rent	95 <sup>th</sup> percentile of all TTPs paid in the public housing program	Applicable flat rent
Step 3: Determination of Family Maximum Subsidy	$\$548 - \$500 = \$48$	$\$600 - \$500 = \$100$
Step 4: Determination of Member Maximum Subsidy	$\$48 \div 4 = \$12$	$\$100 \div 4 = \$25$
Step 5: Determination of Eligible Subsidy	$3 * \$12 = \$36$	$3 * \$25 = \$75$
Step 6: Determination of Mixed-Family TTP	$\$548 - \$36 = \$512$	$\$600 - \$75 = \$525$
Step 7: Determination of Mixed-Family Rent	$\$512 - \$100 = \$412$	$\$525 - \$100 = \$425$

Example 2: Family of 4 with an annual income of \$20,000 and one family member that is not eligible to receive subsidy. The 95<sup>th</sup> percentile rent is \$400 and the flat rent is \$480. The applicable utility allowance is \$100 per month.

Steps	Previous Requirements	Requirements in Streamlining Rule
Step 1: Determination of TTP	\$500	\$500
Step 2: Determination of Maximum Rent	95 <sup>th</sup> percentile of all TTPs paid in the public housing program	Applicable flat rent
Step 3: Determination of Family Maximum Subsidy	$\$400 - \$500 = (\$100)$	$\$480 - \$500 = (\$20)$
Step 4: Determination of	$(\$100) \div 4 = (\$25)$	$(\$20) \div 4 = (\$5)$

Member Maximum Subsidy		
Step 5: Determination of Eligible Subsidy	$3 * (\$25) = (\$75)$	$3 * (\$5) = (\$15)$
Step 6: Determination of Mixed-Family TTP	$\$400 - (\$75) = \$475$	$\$480 - (\$15) = \$495$  Because the maximum rent is less than the family TTP, a PHA must use this family's TTP (\$500) for the Mixed-Family TTP.
Step 7: Determination of Mixed-Family Rent	$\$475 - \$100 = \$375$	$\$500 - \$100 = \$400$

Background: PHAs are required to calculate rent for mixed-families differently than they calculate rent for non-mixed families. For information on mixed families in public housing, please see the public housing occupancy guidebook.

Mandatory or discretionary: Mandatory

Effective date: April 7, 2016

**Attachment I: Tenant self-certification for Community Service and Self-Sufficiency Requirement**

Regulation: 24 CFR §§960.605, 960.607

Program to which this provision applies: Public housing

Description of change: HUD will provide guidance on this provision in a separate notice.

Background: All public housing residents that are not otherwise exempt are required to complete 8 hours of community service or participation in self-sufficiency activities per month. For more information on the administration of CSSR, please see the public housing occupancy guidebook.

Mandatory or discretionary: Discretionary

Effective date: April 7, 2016

## **Attachment J: Public housing grievance procedures**

Regulation: 24 CFR §§966.52 through 966.57

Program to which this provision applies: Public housing

Description of change: This provision eliminates many prescriptive requirements related to the process for obtaining a hearing and the procedures governing the hearing, and permits PHAs to establish local requirements regarding the process for obtaining a grievance hearing. This provision does not prevent a PHA from maintaining the current procedures in place immediately before this final rule. Rather, it eliminates many prescriptive requirements that are not statutory. Specifically, this provision:

- Redefines a hearing officer to include a single hearing officer or a panel of hearing officers;
- Eliminates specific procedures that a complainant must undertake to obtain a hearing;
- Eliminates the requirements related to how a PHA may choose a hearing officer, including the requirement to consult with residents about the PHA choice for the hearing officer;
- Requires PHAs to incorporate policies for selecting a hearing officer in the dwelling lease and to revise the lease accordingly;
- Eliminates the provision that outlines the consequences to a complainant for failure to properly request a hearing;
- Eliminates the requirements regarding how a grievance must be submitted in the informal settlement process;
- Eliminates a provision that would require an escrow deposit by the complainant in any grievance related to tenant rent;
- Eliminates a requirement that a hearing will be scheduled only after a complainant has adequately requested a hearing, completed an informal settlement process, and paid rent due into escrow if necessary;
- Eliminates the requirement that a hearing be conducted informally;
- Requires that a written notification specifying the time, place, and the procedures governing the hearing must be delivered to the complainant and the appropriate official;
- Eliminates the requirement that a PHA must make available for inspection a previous hearing officer decision for prospective complainants;
- Requires PHAs to create a log of hearing officer decisions and make the log available to the hearing officer, prospective complainants and his representative. At a minimum, the log must include: the date of the hearing decision, the general reason for the grievance hearing (failure

to pay rent, community service and self-sufficiency noncompliance, etc.) and whether the decision was in the favor of the complainant or the PHA.

Background: Public housing grievance procedures ensure adequate due process regarding adverse actions against public housing tenants. For information about grievance procedures beyond what is addressed in this Notice, please see the public housing occupancy guidebook.

Mandatory or discretionary: Discretionary

Effective date: April 7, 2016



## **Attachment K: Biennial inspections and the use of alternative inspection methods and inspection timeframes**

Regulation: 24 CFR §§982.405, 983.103

Programs to which this provision applies: Housing Choice Voucher (including the project-based voucher program)

Description of change: This provision offers PHAs the discretion to conduct unit inspections biennially rather than annually, for both the HCV and PBV programs. It also authorizes the use of alternative inspection methods for periodic inspections, such as inspections performed by HUD or conducted pursuant to the HOME Investment Partnerships (HOME) program or housing financed using Low-Income Housing Tax Credits (LIHTCs). PHAs have the discretion to adopt either or both of these flexibilities.

These flexibilities are applicable only to periodic unit inspections conducted during the term of the assisted tenancy. Periodic inspections are those that a PHA is required to conduct at least biennially, while a HCV participant is living in a unit. Periodic inspections do not include inspections conducted prior to the initial term of the lease or to interim inspections. Under the PBV program, the flexibilities do not apply to inspections required prior to the execution of the HAP contract pursuant to 24 CFR §983.103(a) and (b).

Note that under the homeownership option, PHAs are required only to conduct pre-contract inspections; they have the *option* of conducting periodic inspections. If a PHA conducts periodic inspections, then it may do so biennially and/or by means of alternative methods, pursuant to the requirements detailed in this Notice (e.g., update of Admin. Plan, etc.).

*Biennial inspections.* This provision authorizes PHAs to conduct unit inspections every other year instead of annually. Permitting biennial inspections for HCV units will reduce the administrative and financial burden on PHAs and high-performing landlords and enable PHAs to concentrate their inspection resources on the more marginal and higher-risk units. Additionally, this provision can assist PHAs in avoiding duplicative inspections at properties where there are other program inspections, such as under the LIHTC program.

A PHA that moves to biennial inspections for all of the units in its portfolio does not need to update its Admin. Plan to reflect the change. By contrast, a PHA that continues to perform inspections annually across its portfolio must update its Admin. Plan; this is the case because the new requirement is that inspections take place at least biennially, and the PHA is exercising the discretion to continue with annual inspections. Likewise, a PHA that employs both annual and biennial inspections must adopt policies in its Admin. Plan that specify the circumstances under which biennial inspections will be employed and the circumstances under which annual inspections will be employed. These policies must be applied uniformly. For example, a PHA might move to biennial inspections for units in properties that are already inspected annually under a local housing code enforcement program or any unit that receives a “pass” score under HQS for two or more years in a row. A PHA might continue with annual inspections of any units not inspected annually under another program or any unit that had health and safety deficiencies during its previous HQS inspection.

While this provision is intended to offer administrative relief to PHAs, it is not intended to do so at the expense of decent, safe, and sanitary housing. PHAs are discouraged from establishing policies that specify the use of biennial inspections based on factors unrelated to an owner's record of providing housing that is decent, safe, and sanitary, such as the distance of the unit from the PHA's office. While factors such as distance may be taken into account, HUD encourages PHAs to consider factors other than distance — such as the record of the unit itself — in deciding whether to employ biennial inspections.

PHAs should continue to submit the Form HUD-50058 into the Public Housing Information System (PIC) as currently required. The SEMAP module has been modified to accept inspection dates of greater than 12 months since last inspection. Inspection dates submitted into PIC will now be counted as late if they show a time of greater than 26 months since the previous inspection.

*Alternative inspection methods.* The purpose of this provision is to authorize inspection by methods other than HQS. Inspection by such alternative methods is limited, as described below.

PHAs may rely upon two different categories of alternative inspections: (1) inspections conducted by HUD's Real Estate Assessment Center (REAC) or under the HOME or LIHTC program; or (2) other inspection methods that meet or exceed HQS and have been approved by HUD's Real Estate Assessment Center. No matter which option a PHA selects, it must amend its Admin. Plan prior to employing such option.

- REAC/HOME/LIHTC inspections. Inspections covered by REAC, HOME, and LIHTC employ unit sampling. The regulation requires HCV and PBV units be included in the universe of units forming the basis of the sample. For example, if a 100-unit property includes 20 units that are occupied by HCV-assisted families or are under a PBV HAP contract, then those 20 units must be included in the universe of units from which the sample is pulled. This requirement does not mean that the 20 units must be included in the actual sample; it means only that the units must have the potential to be selected for the sample by virtue of being included in the universe of sampled units.
- Other inspection methods. In order to rely on inspections other than those covered by REAC, HOME, or LIHTC, a PHA must submit to HUD the inspection method and an analysis showing that the method meets or exceeds HQS. A PHA may not rely upon such a method unless and until HUD has reviewed and approved use of the method. Once HUD has approved the inspection method, then the PHA must amend its Admin. Plan, making clear the specific properties or types of properties for which the inspection method will be employed. If the inspection method relies upon sampling, then the HCV/PBV units must be included in the population of units forming the basis of the sample, as described above.

HUD will not approve a method that fails to assess the performance requirements and acceptability criteria of unit inspection standards outlined at 24 CFR §982.401, or any successor standard. As with HQS, HUD may approve variations to alternate inspection methods only for the purposes outlined at 24 CFR §982.401(a)(4)(ii), and then only if the variations meet the standard for approval at 24 CFR §982.401(a)(4)(iii). If a method fails to meet these requirements, then HUD will not approve its use.

*Mixed-finance properties and triennial inspections.* For purposes of this provision, a mixed-finance property is defined as a property that is assisted under the PBV program and is financed under a federal, state, and/or local housing program. A PHA may rely on an inspection of a mixed-finance property conducted using an alternative inspection method to meet the requirement at 24 CFR 982.405(a), if the inspection happens no less frequently than triennially.

As with all other inspection reports required under § 982.158(f)(4), reports for alternative inspection methods must be obtained by the PHA from the entity inspecting the units. Such reports must be available for HUD inspection for at least three years from the date of the latest inspection.

PHAs must receive inspection reports and other data from any entity conducting an inspection using an alternative method within 5 business days of the inspection. Prompt analysis of inspection results enable a PHA to determine if any identified deficiencies would result in HQS failure. Memorandums of understanding or other agreements could be used by the PHA and other entity to ensure timely data submission.

PHAs that use inspections conducted with alternative methods, including methods that employ sampling, must continue to submit the Form HUD-50058 into the PIC system in the same manner, which includes providing the date of last inspection, and the date the unit last passed inspection. For methods that employ sampling, the date of the inspection will be used for all units in the universe, even if those units were not selected for inspection. The SEMAP system has been modified to accept inspection dates of greater than 12 months since last inspection. Inspection dates submitted into PIC will now be counted as late if they show a time of greater than 26 months since last inspection.

*Limitations on the use of alternative inspection methods.* A PHA may rely upon an alternative inspection method to demonstrate compliance with the inspection requirement of 24 CFR 982.405(a) in two circumstances:

- In the case of an alternative method that employs a “pass/fail” scoring system, the property inspected pursuant to such alternative method receives a “pass” score. A PHA may rely on an alternative method if the property receives a “pass” score, even if deficiencies are identified.
- In the case of an alternative method that results in a list of deficiencies (without a “pass/fail” designation), the PHA determines that none of the cited deficiencies would have resulted in a “fail” score under HQS.

Under any circumstance in which a PHA is prohibited from relying on an alternative inspection method for a property, the PHA must promptly conduct an HQS inspection of all units occupied by voucher program participants, and follow HQS procedures to remedy any identified deficiencies, as required under the HQS inspection method.

*Duty to inspect.* Irrespective of the biennial/alternative inspection method provision, a PHA has a duty to inspect a unit when a participant family or government official reports a condition that violates HQS. If the condition is life-threatening (i.e., the PHA would require the owner to make the repair within no more than 24 hours in accordance with § 982.404(a)(3)), then the PHA must

inspect the unit within 24 hours of when the PHA receives the notification. If the condition is not life-threatening (i.e., the PHA would require the owner to make the repair within no more than 30 calendar days), then the PHA must inspect the unit within 15 days of when the PHA receives the notification. In the event of extraordinary circumstances, such as if a unit is within a presidentially declared disaster area or if a natural or manmade disaster makes inspection of a unit infeasible, HUD may waive the 24-hour or the 15-day inspection requirement until such time as an inspection can be made. In such circumstances, a PHA must submit a waiver request to its local HUD field office, stating the regulation from which a waiver is requested and including an explanation of why it is needed.

Background: The biennial inspections provision was put into place to enable PHAs to expend relatively fewer resources inspecting units that perform consistently well or are typically inspected by more than one oversight entity and relatively more resources inspecting other units. The alternative inspections provision is intended to address the fact that a property that has more than one funding source may be subject to more than one physical inspection using more than one method. The goal of this provision is to eliminate duplicative inspections while assuring that families with HUD assistance have access to decent, safe, and sanitary housing that is in good repair.

Mandatory or discretionary: PHAs are now authorized to inspect units at least biennially during the term of the assisted tenancy. PHAs have the *discretion*, however, to inspect units more frequently than required. PHAs also have the *discretion* to use alternative inspection methods in accordance with HUD requirements. In those cases where a PHA elects to inspect more frequently than biennially, for some or all of its units, or use an alternative inspection method, its Admin. Plan must be revised.

At any time, if a participant family or government official reports a condition that violates HQS, a PHA must inspect the subject unit within the timeframes described above.

Effective date: This provision has been in effect since July 1, 2014. (See *Federal Register* Notice 79 FR 35940, “HUD Implementation of Fiscal Year 2014 Appropriations Provisions on Public Housing Agency Consortia, Biennial Inspections, Extremely Low-Income Definition and Utility Allowances”).

## **Attachment L: Housing Quality Standards reinspection fee**

Regulation: 24 CFR §982.405

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher)

Description of change: This provision offers PHAs the option to establish a reasonable fee to owners for a reinspection under two circumstances: (1) if an owner notifies the PHA that a deficiency cited in the previous inspection has been repaired and a reinspection reveals that it has not and/or (2) if the allotted time for repairs has elapsed and a reinspection reveals that any deficiency cited in the previous inspection that the owner is responsible for repairing has not been corrected.

A fee will be considered reasonable if it reflects local practices for the establishment of similar fees. PHAs may wish to inquire with local authorities regarding how such fees are established.

PHAs must not apply the fee to an owner for:

- deficiencies caused by the participant family;
- initial inspections;
- regularly scheduled inspections;
- an instance in which an inspector was unable to gain access to a unit; or
- new deficiencies identified during a reinspection. If new deficiencies are uncovered during reinspection, a PHA should follow normal procedures to address these newly identified deficiencies.

An owner who is assessed a fee may not pass the fee on to a family.

In the case of PHA-owned units, inspections and re-inspections must be performed by a HUD-approved entity in accordance with 24 CFR §982.352(b)(3) and §983.103(f)(1)). In this circumstance, and in any case in which inspections are performed by an entity other than the PHA (e.g., unit of local government, contractor), the details of any reinspection fee must be spelled out in the contractual arrangement between the PHA and the entity. (Notice PIH 2015–05 addresses the inspection of PBV units and steps that must be taken in the event the independent entity discovers an HQS violation.)

Fees collected under this reinspection fee authority will be considered unrestricted net assets.

Background: It is burdensome and costly for PHAs to have to inspect units multiple times.

Mandatory or discretionary: Discretionary. A PHA that intends to adopt a reinspection fee must amend its Admin. Plan to make clear when a fee will be assessed. For example, it must make clear whether the fee will be assessed after the first reinspection or after the second reinspection.

The Admin. Plan must also make clear, in each circumstance, what the specific fee amount will be.

In determining whether to adopt a fee, a PHA must ensure that such a fee is not prohibited by state or local law. PHAs are encouraged to consider whether the adoption of a fee may deter landlords from participating in the HCV or PBV programs. For example, if the allotted time for repairs has elapsed and a reinspection reveals that a deficiency cited in the previous inspection that the owner is responsible for repairing has not been corrected, a PHA is already required to take remedial action and will have to decide whether to assess a fee, as well, in accordance with their Admin. Plan.

Effective date: April 7, 2016

## **Attachment M: Exception payment standards for providing reasonable accommodations**

Regulation: 24 CFR §§982.503, 982.505

Program to which this provision applies: Housing Choice Voucher

Description of change: This provision authorizes a PHA to approve a payment standard of not more than 120 percent of the FMR without HUD approval if requested as a reasonable accommodation by a family that includes a person with a disability.

A PHA that adopts this provision must maintain documentation that shows:

- a rent reasonableness analysis was conducted in accordance with the HCV program regulations at 24 CFR 982.507;
- the family requested lease approval for the unit and requested an exception payment standard as a reasonable accommodation; and
- the unit has features that meet the needs of a family member with disabilities. For example, a unit may be suitable because of its physical features or for other reasons, such as having the requisite number of bedrooms, location on an accessible transit route, or proximity to accessible employment, education, services, or recreation.

A PHA may accept a verbal request for a reasonable accommodation from a family. PHAs are advised to make clear in their Admin. Plan whether the request must be in writing and/or include supporting documentation, for example from a medical professional.

Background: Under the preceding regulations, a PHA had to request a waiver from a HUD Field Office for an exception payment standard above 110 percent of the FMR, consuming considerable administrative time and resulting in delays that, in some cases, caused families to miss out on desired units. Under this provision, a PHA 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.

Mandatory or discretionary: Discretionary

Effective date: April 7, 2016

## **Attachment N: Family income and composition: regular and interim examinations**

Regulation: 24 CFR §§982.516(c) through (e)

Program to which this provision applies: Housing Choice Voucher

Description of change: This provision eliminates the requirement that a voucher agency conduct a reexamination of income whenever a new family member is added. The provision does *not* eliminate the requirement to verify other aspects of program eligibility (e.g., SSNs, criminal history, etc.), nor does it eliminate the requirement to perform annual reexaminations of family income (for example, if that happens to be the point at which a new family member is added); it simply eliminates the requirement to perform an interim reexamination of income whenever a new family member is added.

A PHA that adopts this provision must make clear in its Administrative Plan how it will address the addition of a new family member under the age of 6 years, in the event the new family member is added at a time other than during a reexamination. Per 24 CFR §5.216(e)(2)(ii)(B), such a family member is to be counted as a member of the assisted household, meaning that the family becomes entitled to the dependent deduction. A PHA that adopts this provision may decide, for example, to require a full reexamination of income whenever a child under the age of 6 years is added to a family. The PHA's policy on the addition of such family members must be spelled out in its Administrative Plan.

Background: This change makes it possible for a PHA, if it so chooses, to align interim examination requirements across the public housing and Housing Choice Voucher programs.

Mandatory or discretionary: Discretionary. PHAs retain the discretion to perform interim reexaminations when a new family member is added. An agency's ACOP for public housing and HCV Admin. Plan must describe the regular and interim examination policies.

Effective date: April 7, 2016



## **Attachment O: Utility payment schedules**

Regulation: 24 CFR §982.517

Program to which this provision applies: Housing Choice Voucher

Description of change: This provision requires PHAs to use the appropriate utility allowance for the lesser of the size of dwelling unit actually leased by the family or the voucher size issued, as determined under the PHA subsidy standards.

In cases where a reasonable accommodation has been provided to a family that includes a person with disabilities, the PHA must use the appropriate utility allowance for the size of the dwelling unit actually leased by the family. To ensure compliance with this provision, PHAs may employ ad hoc reports that are available through the Inventory Management System/Public and Indian Housing Information Center, as explained in Notice PIH 2014–25 (“Over Subsidization in the Housing Choice Voucher Program”).

Background: This provision was enacted as a cost-saving measure.

Mandatory or discretionary: Mandatory

Effective date: This provision has been in effect since July 1, 2014. (See *Federal Register* Notice 79 FR 35940, “HUD Implementation of Fiscal Year 2014 Appropriations Provisions on Public Housing Agency Consortia, Biennial Inspections, Extremely Low-Income Definition and Utility Allowances”).