

**HOUSING AUTHORITY OF THE  
CITY OF NEW BERN**

**ADMISSIONS AND CONTINUED  
OCCUPANCY POLICY**

**HOUSING AUTHORITY OF THE CITY OF NEW BERN**  
**ADMISSIONS AND CONTINUED OCCUPANCY POLICY**

**TABLE OF CONTENTS**

- I. Nondiscrimination ..... 2
  - A. Complying with Civil Rights Laws ..... 2
  - B. Making Programs and Facilities Accessible to People with Disabilities ..... 4
- II. Eligibility for Admission and Processing of Applications ..... 5
  - A. Affirmative Marketing ..... 5
  - B. Qualifying for Admission ..... 6
  - C. Establishing and Maintaining the Waiting List ..... 7
  - D. Processing Applications for Admission ..... 8
  - E. The Preference System ..... 9
  - F. Screening Applicants for Admission ..... 13
  - G. Occupancy Guidelines ..... 20
- III. Tenant Selection and Assignment Plan ..... 22
  - A. Organizing the Waiting List ..... 23
  - B. Making Unit Offers to Applicants ..... 24
  - C. Removing Applicant Names from the Waiting List ..... 23
  - D. Good Cause for Applicant Refusal of Unit Offer ..... 25
  - E. Leasing Accessible Units ..... 26
  - F. Administering the Applicant and Transfer Waiting Lists ..... 26
  - G. Transfers ..... 27
- IV. Leasing Policies ..... 27
  - A. General Leasing ACOP ..... 27
  - B. Showing Units Prior to Leasing ..... 28
  - C. Additions to the Household and Visitors ..... 28
- V. Transfer ACOP ..... 30
  - A. General Transfer ACOP ..... 30
  - B. Types of Transfers ..... 30
  - C. Processing Transfers ..... 32
  - D. Good Record Requirement for Transfers ..... 33
  - E. Incentive Transfers ..... 33
  - F. Paying for Transfers ..... 34

VI.	Eligibility for Continued Occupancy, Annual Reexaminations, and Remaining Family Members.....	34
	A. Eligibility for Continued Occupancy.....	34
	B. Remaining Family Members and Prior Debt.....	35
	C. Reexaminations.....	35
VII.	Interim Rent Adjustments: Fixed Rent System.....	36
	A. Adjusting Rent Between Regular Reexaminations.....	36
	B. Effective Date of Adjustments.....	38
VIII.	Lease Termination Procedures.....	38
	A. General ACOP: Lease Termination.....	38
	B. Notice Requirements.....	38
	C. Recordkeeping Requirements.....	39
IX.	Utilities.....	39
	A. Resident-Paid Utilities.....	39
	B. Excess Utility Charges.....	40
X.	Ceiling Rents/Flat Rents.....	40
	A. Intent and Purpose.....	40
	B. Establishing Ceiling Rents.....	40
	C. Calculating Ceiling Rents.....	41
	D. What the Resident Pays.....	41
	E. Ceiling Rent Adjustments.....	41
	F. Flat Rents.....	41
	G. Annual Update of Flat Rents.....	42
	H. Recertification of Families on Flat Rents.....	42
XI.	Procedures to be Used in Determining Income and Rent.....	42
	A. Annual Income.....	42
	B. Items not included in Annual Incomes.....	43
	C. Anticipating Annual Income.....	48
	D. Adjusted Income.....	48
	E. Computing Rent.....	49
XII.	Verification.....	50
	Introduction.....	50
	General Verification Requirements.....	51
	A. Family Consent to Release of Information.....	51
	B. Overview of Verification Requirements.....	51
	C. Enterprise Income Verification (EIV).....	53
	D. Third-Party Written and Oral Verification.....	56
	E. Review of Documents.....	57
	F. Self-Certification.....	57

G. Verification of Legal Identity.....	59
H. Social Security Numbers.....	59
I. Documentation of Age.....	60
J. Family Relationships.....	60
K. Verification of Student Status.....	61
L. Documentation of Disability.....	61
M. Citizenship of Eligible Immigration Status.....	61
N. Verification of Preference Status.....	63
Verifying Income and Assets.....	63
O. Earned Income.....	64
P. Business and Self-Employment Income.....	64
Q. Periodic Payments and Payments in Lieu of Earnings.....	65
R. Alimony or Child Support.....	65
S. Assets and Income from Assets.....	66
T. Net Income from Rental Property.....	66
W. Retirement Accounts.....	67
X. Income from Excluded Sources.....	67
Y. Zero Annual Income Status.....	68
Verifying Mandatory Deductions.....	69
Z. Dependent and Elderly/Disabled Household Deductions.....	69
AA. Medical Expense Deductions.....	69
BB. Disability Assistance Expenses.....	70
CC. Child Care Expenses.....	72
EIV Verification Hierarchy charts.....	74
Summary of Documentation Requirements for Noncitizens.....	81
XIII. EIV Security Policy.....	82
A. Privacy Act of 1974.....	82
B. Tenants Rights.....	82
C. EIV Administrator Duties.....	82
D. Obtaining Access to EIV Data.....	83
E. Physical Security Requirements.....	84
F. Computer System Security Requirements.....	84
G. Destruction of Records and Clearing of Various Types of Automated Media.....	85
H. Security Awareness Training.....	86
I. Record Keeping and Reporting Requirements.....	87
J. Record Keeping Requirements.....	87
K. Access to UIV Information.....	88
L. Reporting Improper Disclosures.....	89
M. NBHA Security Assessment.....	89

Safeguards Provided by the Privacy Act.....	93
Criminal Penalties Associated with the Privacy Act.....	93
XIV. Domestic Violence Policy	
A. Background.....	94
B. Definitions.....	94
C. Eligibility Screening.....	95
D. Waiting List Preference.....	95
E. Conditions of Continued Occupancy.....	95
F. Family Break-up Policy.....	96
G. Transfer Policy.....	96
H. Responsibility of the Authority.....	97
XV. Definitions.....	97

**HOUSING AUTHORITY OF THE CITY OF NEW BERN  
ADMISSIONS AND CONTINUED OCCUPANCY POLICY**

**ADOPTION**

This Admissions and Continued Occupancy Policy ("ACOP") governs the admission to and the continued occupancy of public housing units and developments operated by the Housing Authority of the City of New Bern, North Carolina, hereinafter called Public Housing Authority ("PHA").

This ACOP sets forth admissions and occupancy policies required by the United States Housing Act of 1937, as amended, related federal laws, the United States Department of Housing and Urban Development's ("HUD") regulations, and relevant laws of the State of North Carolina. The ACOP has been designed to ensure that PHA will effectively meet the needs of limited-income individuals and families by providing safe, sanitary, drug-free, and affordable housing that will be a suitable living environment that fosters social diversity and promotes self-sufficiency. This ACOP has been established and adopted by PHA Board of Commissioners to guide PHA staff in determining eligibility for admission to and the continued occupancy of PHA developments, and is binding upon applicants, residents, and PHA staff. Changes to any policies, procedures, or guidelines in this manual will only be made by resolution adopted by the Board of Commissioners.

Adopted this 27th day of June, 2007, by PHA Board of Commissioners.

## **I. Nondiscrimination**

### **A. Complying with Civil Rights Laws**

1. Civil rights laws protect the rights of applicants and residents to equal treatment by PHA in the way it carries out its programs. It is the policy of PHA to comply with all civil rights laws, including but not limited to:

- Title VI of the Civil Rights Act of 1964, which forbids discrimination on the basis of race, color, religion, national origin or sex;
- Title VIII of the Civil Rights Act of 1968 (as amended by the 1974 HCDA and the Fair Housing Amendments Act of 1988), which extends protection against discrimination based on disability and familial status, and spell out forms of prohibited discrimination;
- Executive Order 11063, which sets standards for equal opportunity in housing;
- Section 504 of the Rehabilitation Act of 1973, which describes specific housing rights of persons with disabilities;
- the Age Discrimination Act of 1975, which establishes certain rights of the elderly;
- Title II of the Americans with Disabilities Act of 1990 (ADA) requires that PHA provide individuals with disabilities with access to its programs, services and activities including, common areas and public spaces;
- any applicable state laws or local ordinances; and,
- any legislation protecting the individual rights of tenants, applicants or staff that may subsequently be enacted.

2. PHA will not discriminate because of race, color, national origin, sex, religion, familial status, or disability in the leasing, rental, occupancy, use, or other disposition of housing or related facilities, including land, that is part of a development under PHA's jurisdiction covered by a public housing Annual Contributions Contract with HUD.

3. PHA will not, on account of race, color, national origin, sex, religion, familial status, or disability:

(a) Deny anyone the opportunity to apply for housing (when the waiting list is open), nor deny to any qualified applicant the opportunity to lease housing suitable to its needs;

- (b) Provide anyone housing that is different (of lower quality) from that provided others;
- (c) Subject anyone to segregation or disparate treatment;
- (d) Restrict anyone's access to any benefit enjoyed by others in connection with the housing program;
- (e) Treat anyone differently in determining eligibility or other requirements for admission;
- (f) Deny anyone access to the same level of services; or
- (g) Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program.

4. PHA will not automatically deny admission to otherwise qualified applicants because of their membership in some group to which negative behavior may be imputed (e.g., families with children born to unmarried parents or families whose head of household is a student). Instead, each applicant who is a member of a particular group will be treated as an individual based on his or her attributes and behavior.

5. PHA will correct situations or procedures that create a barrier to equal housing opportunity for all. To permit people with disabilities to take full advantage of PHA's housing program and non-housing programs the:

- (a) PHA must, upon request by an applicant or resident with a disability,
  - make structural modifications to its housing and non-housing facilities, and
  - make reasonable accommodations in its procedures or practices unless such structural modifications or reasonable accommodations
    - would result in an undue financial and administrative burden on the Authority, or
    - would result in a fundamental alteration in the nature of the program.

(b) In making structural modifications to "existing housing programs" or in carrying out "other alterations" for otherwise qualified persons with disabilities, PHA may, but is not required to:

- Make each of its existing facilities accessible;



- Make structural alterations when other methods can be demonstrated to achieve the same effect;
- Make structural alterations that require the removal or altering of a load-bearing structural member;
- Provide an elevator in any multifamily housing project solely for the purpose of locating accessible units above or below the grade level;

(c) When PHA is making "substantial alterations" to an existing housing facility PHA may, but is not required to:

- Provide an elevator in any multifamily housing project solely for the purpose of locating accessible units above or below the grade level;
- Make structural alterations that require the removal or altering of a load-bearing structural member; or
- Make structural alterations to meet minimum accessibility requirements where it is structurally impracticable also.

6. PHA will not permit these policies to be subverted to do personal or political favors. PHA will not offer units in an order different from that prescribed by this ACOP, since doing so may violate the ACOP, federal law, and the civil rights of the other families on the waiting list.

**B. Making Programs and Facilities Accessible to People with Disabilities**

1. Facilities and programs used by residents will be accessible to a person in a wheelchair. Application and management offices, hearing rooms, community centers, day care centers, laundry facilities, craft and game rooms, etc. (to the extent that PHA has such facilities) will be usable by residents with a full range of disabilities. To the extent that PHA offers such facilities, if none is already accessible, some will be made so, subject to the undue financial and administrative burden test.

2. Documents used by applicants and residents will be accessible for those with vision or hearing impairments. Also, all documents will be written simply and clearly to enable applicants with learning or cognitive disabilities to understand as much as possible. Unless

prohibited by local law and in PHA's discretion, documents may be translated into languages other than English.

3. PHA will present examples to help applicants and residents understand eligibility, rent computation, applicant screening, reasonable accommodations, and lease compliance. In writing materials for applicants and residents, PHA staff will be prepared to explain rules and benefits verbally, as often as may be needed, because some disabilities may affect an applicant's ability to read or understand.

4. When PHA has initial contact with the applicant, PHA staff will ask whether the applicant requires an alternate form of communication. Examples of alternative forms of communication might include, but are not limited to: a qualified sign language interpreter provided for and paid for by PHA; having written materials explained orally by staff either in person or by telephone; provision of written materials in large/bold font; information on audiocassette; permitting applicants to file applications by mail; and, permitting alternative sites for the receipt of applications. In addition, PHA's obligation to provide alternative forms of communication to persons with disabilities does not preclude an individual's right to have a friend, relative or advocate accompany the individual for purposes of conducting business with PHA.

5. Some applicants will not be able to read (or to read English), so intake staff must be prepared to read and explain anything that they would normally provide to an applicant to be completed. Applicants who read or understand little English may furnish an interpreter who can explain what is going on. PHA is not required to pay the costs associated with having a foreign language interpreter.

6. Whenever reasonably possible, PHA will prepare information to be used by applicants and residents in plain-language accessible formats.

## **II. Eligibility for Admission and Processing of Applications**

### **A. Affirmative Marketing**

1. PHA will conduct reasonable affirmative marketing with the goal of establishing waiting list that includes a mix of applicants with races, ethnic backgrounds, ages and disabilities proportionate to the mix of those groups in the eligible population of the area. The marketing plan will take into consideration the number and distribution of vacant units, units that can be expected to become vacant because of move-outs, and characteristics of families on the waiting

list. PHA will review these factors regularly to determine the need for and scope of marketing efforts. All marketing efforts will include outreach to those least likely to apply.

2. Marketing and informational materials will:

- (a) Comply with Fair Housing Act requirements on wording, logo, size of type, etc.;
- (b) Describe the housing units, application process, waiting list and preference structure accurately;
- (c) Use clear and easy to understand terms and more than strictly English-language print media;
- (d) Contact agencies that serve potentially qualified applicants least likely to apply (e.g. the disabled) to ensure that accessible/adaptable units are offered to applicants who need their features;
- (e) Make clear who is eligible: low income individuals and families; working and non-working people; and people with both physical and mental disabilities; and,
- (f) Clearly and concisely describe PHA's responsibility to provide reasonable accommodations to people with disabilities.

**B. Qualifying for Admission**

- 1. It is PHA's policy to admit only qualified applicants.
- 2. An applicant is qualified if he or she meets all of the following criteria:
  - (a) Is a family, as defined in Section XII of this policy;
  - (b) Meets HUD requirements on citizenship or immigration status;
  - (c) Has an Annual Income (as defined in Section XI of this document) at the time of admission that does not exceed the income limits (maximum incomes by family size established by HUD) posted in PHA offices;
  - (d) Provides documentation of Social Security numbers for family members age 6 or older, or certifies that they do not have Social Security numbers; and
  - (e) Meets the Applicant Selection Criteria in Section II. F. of this ACOP, including completing a PHA-approved pre-occupancy orientation session if requested.
- 3. Occupancy by Police Officers: For the purpose of increasing security for the residents of our public housing developments, PHA may allow officers, who would not otherwise be eligible for public housing, to reside in a public housing unit. PHA will include in

its Annual Plan the number, location of the units to be occupied by police officers, and the terms and conditions of their tenancies. A police officer is determined by the PHA to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a federal, state or local government or by any agency of these governments. An officer of an accredited police force of a housing agency may qualify.

**C. Establishing and Maintaining the Waiting List**

1. It is the policy of PHA to administer its waiting list as required by HUD's regulations.

2. Opening and Closing Waiting Lists.

(a) For any unit size or type, if PHA's waiting list has sufficient applications to fill anticipated vacancies for the coming 12 months, PHA may elect to: (a) close the waiting list completely; (b) close the list during certain times of the year; or (c) restrict intake by preference, type of project, or by size and type of dwelling.

(b) A decision to close the waiting list will consider the number of applications for each size and type of unit, the number of applicants who qualify for a preference, and the ability of PHA to house applicants in twelve to eighteen months. Decisions to close waiting lists, restrict intake, or open waiting lists will be publicly announced.

(c) When the waiting list is closed, PHA will not maintain a list of individuals who wish to be notified when the waiting list is re-opened.

3. Determining if the Waiting List May be Closed.

PHA will use its Procedure on Opening and Closing the Waiting List to determine whether the waiting list(s) should be closed.

4. Updating the Waiting List

(a) Once each year PHA will update each waiting list sublist by contacting all applicants in writing.

If, after two attempts in writing, no response is received, PHA will withdraw the name of an applicant from the waiting list.

At the time of initial intake, PHA will advise families that they must notify PHA when their circumstances, mailing address or phone numbers change.

(b) PHA will remove an applicant's name from the waiting list only in accordance with its Procedure on Updating the Waiting List and Removing Applications.

5. Change in Preference Status While on the Waiting List

(a) Situations of some families who did not qualify for a local or ranking preference when they applied may change so they are qualified for a preference. The family should contact PHA so their status may be recertified or reverified. Applicants whose preference status changes while they are on the waiting list retain their original date and time of application, or application number, as applicable.

(b) If PHA determines that the family does now qualify for a preference, they will be moved up on the waiting list in accordance with their preference(s) and their date and time of application. They will then be informed in writing of how the change in status has affected their place on the waiting list.

**D. Processing Applications for Admission**

1. PHA will accept and process applications in accordance with applicable HUD Regulations and PHA's Procedure on Taking Applications and Initial Processing. PHA will assume that the facts certified to by the applicant in the preliminary application are correct, although all those facts will be verified later in the application process.

2. Interviews and Verification Process.

As applicants approach the top of the waiting list, they will be contacted and asked to come to PHA for an interview to complete their applicant file. Applicants who fail to attend their scheduled interview or who cannot be contacted to schedule an interview will have their applications withdrawn, subject to reasonable accommodations for people with disabilities.

(a) The following items will be verified according to PHA's Procedure on Verification, to determine qualification for admission to PHA's housing:

(i) Family composition and type (Elderly/Disabled/near elderly /non-elderly);

(ii) Annual Income;

(iii) Assets and Asset Income;

(iv) Deductions from Income;

(v) Preferences;

(vi) Social Security Numbers of all Family Members;

(vii) Applicant Screening Information; and,

(viii) Citizenship or eligible immigration status.

(b) Third-party written verification is the required form of documentation to substantiate applicant or resident claims. If attempts to obtain third party written verification are unsuccessful, PHA may also use (1) verbal verifications with the results recorded in the file, dated, and signed by PHA staff, (2) review of documents, and, if no other form of verification is available, (3) applicant certification. Applicants must cooperate fully in obtaining or providing the necessary verifications.

(c) Verification of eligible immigration status will be carried out pursuant to 24 CFR § 5.5. Citizens are permitted to certify to their status.

3. Applicants reporting zero income will be asked to complete a family expense form to document how much they spend on: food, transportation, health care, child care, debts, household items, etc. and what the source of income is for these expenses.

4. PHA's applications for admission public housing will indicate for each application the date and time of receipt; applicant's race and ethnicity; determination by PHA as to eligibility of the applicant; when eligible, the unit size(s) for which eligible; preference, if any; and the date, location, identification, and circumstances of each vacancy offered and accepted or rejected.

#### **E. The Preference System**

1. An admission preference does not guarantee admission. Preferences establish the order of placement on the waiting list. Every applicant must still meet PHA's Selection Criteria before being offered a unit.

2. Factors other than preferences that affect the selection of applicants from the waiting list.

Before applying its preference system, PHA will match the characteristics of the available unit to the applicants available on the waiting list. Unit size, accessibility features, or type of project limit the admission of families to households whose characteristics "match" the vacant unit available.

By matching unit and family characteristics, families lower on the waiting list may receive an offer of housing before families with an earlier date and time of application or families with a higher preferences (e.g. the next unit available is an accessible unit and the only applicant family needing such features is in the non-preference pool, i.e. having no preference).

Factors other than the preference system that affect applicant selection are described below:

(a) When selecting a family for a unit with accessible features, PHA will give a preference to families that include persons with disabilities who can benefit from the unit's features. First preference will be given to existing tenant families seeking a transfer and second preference will be given to applicant families.

If no family needing accessible features can be found for a unit with such features, PHA will house a family not needing the unit features, but a non-disabled family in an accessible unit will be required to move so that a family needing the unit features can take advantage of the unit.

(b) When selecting a family for a unit in housing designated for elderly families, or disabled families, if any, PHA will give a priority to elderly, disabled or near elderly families.

(c) When selecting a family for a unit in a property that houses elderly and disabled families, as opposed to a general occupancy development that houses non-elderly families as well, PHA will give equal priority to elderly families and disabled families.

(d) When selecting a single person at a Mixed Population development, elderly, disabled or displaced single persons have priority over other singles. Single applicants who are not elderly, disabled or displaced can only be admitted after all elderly or disabled families or single displaced persons have been offered units.

Preferences will be granted to applicants who are otherwise qualified and who, at the time of the unit offer (prior to execution of a lease), meet the definitions of the preferences described below.

### 3. Local Preference.

There is one local preference in effect based on ranges of income. Applicants will be grouped as follows:

- Tier I: Families with incomes between 0% and 30% of area median income (the target for this group is 40% of all admissions in any year);
- Tier II: Families with incomes between 31% and 80% of area median income (the target for this group is 60% of all admissions in any year).

4. Ranking Preference.

There are two possible ranking preferences in effect: first is the **Residency** Preference, and second is the Upward Mobility Preference. PHA's Procedure on Unit Offers and Applicant Placement will be used to order the Waiting List and make unit offers.

Families that qualify for neither the **Residency** nor the Upward Mobility preferences will be categorized as No-preference families.

5. Mixed Population Buildings Local Preference.

In addition to the Income Tier preference, which applies to all PHA's developments, PHA may give priority to single persons who are elderly, persons with disabilities, or persons displaced by governmental action over all other single persons when filling vacancies in its Mixed Population buildings.

6. Method of Applying Preferences.

(a) To ensure that PHA admits the statutorily required 40% of applicants per year with incomes in Tier I and, at the same time, does not create concentrations of families by income at any of its properties, PHA will rank applicants within both income tiers, in order, as Upward Mobility, **Residency** or no-preference. Within each of the ranking preference categories, offers will be made by oldest application.

(b) PHA will select applicants from Tiers I and II on the waiting list by selecting first from the Upward Mobility applicants, then from **Residency** applicants within each Tier, and then, if the **Residency** applications are exhausted, by selecting from the No- preference applicants within each Tier.

(c) PHA will also offer units to existing residents on the transfer list. Some types of transfers are processed before new admissions and some types of transfers are processed with new admissions, using a ratio set forth in the Tenant Selection and Assignment Plan (TSAP). Transfers do not count toward the 40% Tier I requirement.

(d) PHA will not hold units vacant for applicants with preferences, nor will it relax eligibility or screening criteria to admit otherwise unqualified applicants with preferences.

7. Definition of **Residency** and Upward Mobility Preference.

PHA defines "Residency Preference" to include applicants with adult members of the household who can document that they are residents of **or work in** the City of New Bern, North Carolina, through the provision of documentation including, but not limited to, North Carolina



driver's license, rental agreements, valid North Carolina identification cards, birth certificate, utility statements, etc.

PHA defines "Upward Mobility" to include applicants with adult members who can document that they are employed or involved in job training, including job training undertaken as a requirement of persons receiving Temporary Assistance to Needy Families. Persons who cannot work because of age or disability also qualify for this ranking preference. These subcategories are equal in importance.

8. Designated Housing. The preference system will be used to match the characteristics of the family to the type of unit available, including developments with HUD-approved designated populations. The ability to provide preferences for some family types will depend on unit size available.

(a) Projects designated for the elderly: Elderly families will receive a priority for admission to units or buildings covered by a HUD-approved Designation Plan. When there are insufficient elderly families, near-elderly families will receive a priority for this type of unit. Only elderly and near-elderly can live in designated elderly buildings, and near-elderly can only live there if the designated plan specifies that they can. No other type of family is eligible for admission to a designated elderly building.

(b) Projects designated for disabled families: Disabled families will receive a priority for admission to units or buildings covered by a HUD-approved Designation Plan.

(c) Mixed population Projects: Elderly families, disabled families will receive equal priority for admission to such units and all such will receive offers before single people who are not elderly, disabled or displaced.

(d) General Occupancy Projects: The priority for elderly and disabled families and displaced persons over single persons does not apply at General Occupancy Properties.

9. Administration of the Preferences.

(a) Depending on the time an applicant may have to remain on the waiting list, PHA will either verify preferences at the time of application (when the waiting list is short or non-existent) or require that applicants certify to their qualification for a preference at the time of pre-application (when the wait for admission exceeds four months). Preference verifications will be no more than 120 days old at the time of certification.

(b) PHA may use a pre-application to obtain the family's certification that it qualifies for a preference. The family will be advised that the family must notify PHA of any change that may affect their ability to qualify for a preference.

(c) Applicants that are otherwise eligible and self-certified as qualifying for a preference will be placed on the waiting list in the appropriate applicant pool.

(d) Applicants that self-certify to a preference at the time of pre-application and cannot verify current preference status at the time of certification will be moved into the No-preference category, and to a lower position on the waiting list based on date and time of application.

10. Notice and Opportunity for a Meeting.

If an applicant claims but PHA determines the family does not qualify for a preference, the applicant can request a meeting:

(a) PHA will provide a notice that an applicant does not qualify for a preference containing a brief statement of the reasons for the determination, and that the applicant has may meet with PHA's designee to review the determination.

(b) If the applicant requests the meeting, PHA will designate someone to conduct the meeting. This can be the person who made the initial determination or reviewed the determination of his or her subordinate, or any other person chosen by PHA. A written summary of this meeting will be made and retained in the applicant's file.

(c) The applicant will be advised that he/she may exercise other rights if the applicant believes that illegal discrimination, based on race, color, national origin, religion, age, disability, or familial status has contributed to PHA's decision to deny the preference.

**F. Screening Applicants for Admission.**

1. All applicants will be screened in accordance with HUD's regulations and sound management practices. During screening, PHA will require applicants to demonstrate ability to comply with essential provisions of the lease as summarized below:

(a) to pay rent and other charges (e.g. utility bills) as required by the lease in a timely manner;

(b) to care for and avoid damaging the unit and common areas;

(c) to use facilities and equipment in a reasonable way;

(d) to create no health, or safety hazards, and to report maintenance needs;

(e) not to interfere with the rights and peaceful enjoyment of others, and to avoid damaging the property of others;

(f) not to engage in criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents or staff; and not to engage in drug-related criminal activity; and,

(g) to comply with necessary and reasonable rules and program requirements of HUD and PHA.

2. How PHA will verify ability to comply with essential lease requirements:

(a) Applicant ability and willingness to comply with the essential lease requirements will be verified and documented in accordance with PHA's Procedure on Applicant Screening. Applicant screening will assess the conduct of the applicant and other family members listed on the application, in present and prior housing. Any costs incurred to complete the screening will be paid by PHA.

(b) The history of applicant conduct and behavior must demonstrate that the applicant family can reasonably be expected not to:

(i) Interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises by adversely affecting their health, safety, or welfare;

(ii) Adversely affect the physical environment or financial stability of the project;

(iii) Violate the terms and conditions of the lease;

(iv) Require services from PHA staff that would alter the fundamental nature of PHA's program.

(c) PHA will conduct a detailed interview of all applicants using an interview checklist as a part of the screening procedures. The form will ask questions based on the essential elements of tenancy. Answers will be subject to third party verification.

(d) PHA will complete a credit check and a rental history check on all applicants.

(e) Payment of funds owed to PHA or any other housing authority is part of the screening evaluation. PHA will reject an applicant for unpaid balances owed PHA by the applicant for any program that PHA operates.

(f) PHA will complete a criminal background check on all adult applicants or any member for whom criminal records are available. Before PHA rejects an applicant on the basis of criminal history, PHA must notify the household of the proposed rejection and provide the household member whose criminal history is at issue with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

(g) If any screening activity suggests that an applicant household member may be currently engaged in illegal use of drugs, PHA will seek information from a drug abuse treatment facility to determine whether the facility has reasonable cause to believe the household member is currently engaging in illegal drug use.

(h) PHA will complete a home visit on all applicants that have passed criminal history screening and have incomplete or questionable landlord references to determine if the applicant's housekeeping would create health or sanitation problems. Staff completing the home visit will consider whether the conditions they observe are the result of the applicant's treatment of the unit or are caused by the unit's overall substandard condition.

- (i) Housekeeping criteria to be checked will include, but not be limited to:
- Conditions in living room, kitchen (food preparation and clean-up), bathroom, bedrooms, entrance-ways, halls, and yard (if applicable);
  - Cleanliness in each room; and
  - General care of appliances, fixtures, windows, doors and cabinets.
  - Other PHA lease compliance criteria will also be checked, such as:
    - Evidence of destruction of property;
    - Unauthorized occupants;
    - Evidence of criminal activity; and,
    - Conditions inconsistent with application information.

All applicants will have at least two days' advance written notice of Home Visits.

(j) All applicants may be asked to attend and complete PHA's Pre-Occupancy Orientation.

(k) PHA's examination of relevant information respecting past and current habits or practices will include, but is not limited to, an assessment of the applicant's adult family members:

- Past performance in meeting financial obligations, especially rent and utility bills.
- Record of disturbance of neighbors, destruction of property, or living or housekeeping habits that may adversely affect the health, safety, or welfare of other tenants or neighbors.
- History of criminal activity on the part of any applicant family member involving crimes of physical violence to persons or property or other criminal acts including drug-related criminal activity that would adversely affect the health, safety, or welfare of other residents or staff or cause damage to the unit or development.
  - PHA may require an applicant to exclude a household member in order to be admitted if that household member has participated in or been culpable for criminal actions that warrant rejection;
  - PHA may, if a statute requires that PHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, choose to continue that prohibition for a longer period of time.
- A record of eviction from housing or involuntary termination from residential programs (taking into account date and circumstances).
- An applicant's ability and willingness to comply with the terms of PHA's lease.

(1) PHA will use the following criteria to determine eligibility pursuant to illegal drug activity of:

(a) APPLICANTS

- PHA will deny the application of any applicant if the applicant or any person listed on the application has been involved in illegal drug activity within the previous five years. The five year period calculation shall use the most recent date charged/cited to determine whether the applicant has passed the five year period criteria.

- Participation in any rehabilitation program will not be cause for mitigating the five year period criteria.
- The application for any applicant or person listed on the application who has ever been convicted of the manufacture or production of methamphetamines will automatically be denied, and the five year period criteria does not apply.
- Applicants must be able to demonstrate the ability and willingness to comply with the terms of PHA's lease, either alone or with assistance that they can demonstrate they will have at the time of admission. Availability of assistance is subject to verification by PHA.

(b) RESIDENTS

- The "One Strike You're Out" policy remains in effect. Any resident or member of the household charged with or cited for any involvement in illegal drug activity, on or off housing authority property, will be subject to immediate eviction proceedings.
- The Head of Household is responsible for each guest in the household; therefore, any guest charged/cited for illegal activity while in the residence will be cause for immediate eviction of the resident for lease violation.
- Guests in the residence may not have a record of illegal drug activity during the previous five years. Any resident who allows a guest in their residence, who has been involved in illegal drug activity within the previous five years, is in violation of their lease and subject to immediate eviction proceedings.
- Any resident who is evicted for any illegal drug activity involvement may reapply for housing when the requirements for an applicant are met, as outlined above.

- Participation in any rehabilitation program will not have any affect on the eviction proceedings and will not be cause for mitigating the five year period criteria.
- Any person who is subject to a lifetime registration requirement under a State Sex Offender Registration Program will not be admitted or allowed to reside in any of PHA's premises.
- Any member of the household's abuse or pattern of abuse of alcohol which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents may be cause for the immediate termination of lease or eviction procedures.
- Intentional misrepresentation of information related to eligibility, housing history, allowances, family composition or rent will result in rejection of the application of an applicant or termination of the lease of a current resident.

3. Screening applicants who claim mitigating circumstances

(a) If negative information is received about an applicant, PHA will consider the time, nature, and extent of the applicant's conduct and to factors that might indicate a reasonable probability of favorable future conduct. To be considered, mitigating circumstances must be verifiable.

(b) Mitigating circumstances are facts relating to the applicant's negative rental history or behavior, that, when verified, indicate: (1) the reason for the unsuitable rental history and/or behavior; (2) that the reason for the unsuitable rental history and behavior is no longer in effect or is under control, and (3) the applicant's prospect for lease compliance is an acceptable one and reasonable justifies admission. In PHA's sole discretion, mitigating circumstances may overcome or outweigh information already gathered in the screening process.

(c) If the applicant asserts that mitigating circumstances relate to a change in disability, medical condition or treatment, PHA will refer such information to persons qualified to evaluate the evidence and verify the mitigating circumstance. PHA will also have the right to

request further information to verify the mitigating circumstance, even if such information is of a medically confidential nature. Such inquiries will be limited to the information necessary to verify the mitigating circumstances or, in the case of a person with disabilities, to verify a reasonable accommodation.

(d) Examples of mitigating circumstances include, but are not limited to:

(i) Evidence of successful rehabilitation;

(ii) Evidence of the applicant family's participation in social service or other appropriate counseling service; or,

(iii) Evidence of successful and sustained modification of previous disqualifying behavior.

(e) Consideration of mitigating circumstances does not guarantee that applicant will qualify for admission. PHA will consider such circumstances in light of:

(i) the applicant's ability to verify the mitigating circumstances and prospects for improved future behavior;

(ii) the applicant's overall performance with respect to all the screening requirements; and,

(iii) the nature and seriousness of any criminal activity, especially drug related criminal activity that appears in the applicant's record.

#### 4. Qualified and Unqualified Applicants

(a) Verified information will be analyzed and a determination made with respect to:

(i) Eligibility of the applicant as a family;

(ii) Eligibility of the applicant with respect to income limits for admission;

(iii) Eligibility of the applicant with respect to citizenship or eligible immigration status;

(iv) Unit size required for and selected by the family;

(v) Preference category (if any) to which the family is entitled; and,

(vi) Qualification of the applicant with respect to the Selection Criteria



(b) Qualified families will be notified by PHA of the approximate date of admission. However, the date stated by PHA is an estimate and does not guarantee that applicants can expect to be housed by that date.

(c) Unqualified applicants will be promptly notified by a Notice of Rejection from PHA, stating the basis for such determination and offering an opportunity for informal hearing (see Procedure for Informal Hearing for Rejected Applicants). Informal hearings for applicants are different from the resident grievance process. Applicants are not entitled to use of the resident grievance process.

(d) Applicants known to have a disability that are eligible but fail to meet the Selection Criteria, will be offered an opportunity for a second meeting to determine whether mitigating circumstances or reasonable accommodations will make it possible for them to be housed in accordance with the Screening Procedures.

**G. Occupancy Guidelines**

1. Units will be occupied by families of the appropriate size. This policy maintains the usefulness of the units, while preserving them from excessive wear and tear and under-utilization.

**Minimum and Maximum-Number-of-Persons-Per Unit Standard**

<u>Number of Bedrooms</u>	<u>Min Persons/Unit</u> <u>(Largest Unit Size)</u>	<u>Max Persons/Unit</u> <u>(Smallest Unit Size)</u>
0BR	1	1
1BR	1	2
2BR	2	4
3BR	3	6
4BR	4	8
5BR	5	10

The following principles govern the size of unit for which a family will qualify. Generally, two people are expected to share each bedroom, except that units will be so assigned that:

(a) It will not be necessary for persons of different generations or opposite sex, other than husband and wife, to occupy the same bedroom, although they may do so at the request of the family.

(b) Exceptions to the largest permissible unit size may be made in case of reasonable accommodations for a person with disabilities.

(c) Two children of the opposite sex will not be required to share a bedroom, although they may do so at the request of the family.

(d) An unborn child will not be counted as a person in determining unit size. A single pregnant woman may be assigned to a one bedroom unit. In determining unit size.

(e) PHA will count a child who is temporarily away from the home because the child has been placed in foster care, kinship care, or is away at school.

(f) A single head of household parent will not be required to share a bedroom with his/her child, although they may do so at the request of the family.

(g) A live-in attendant may be assigned a bedroom. Single elderly or disabled residents with live-in attendants will be assigned one or two bedroom units.

(h) Efficiency apartments will be occupied first by persons who prefer efficiencies to 1 BR units. Once applicants who prefer efficiencies have been housed, single individuals applying to Mixed Population buildings who wish to live in 1 Bedroom units (rather than efficiencies) will participate in a lottery to determine whether they will be offered a 1 BR or an efficiency.

2. The Local Housing Code of two persons per bedroom will be the standard for the smallest unit a family may be offered. Individual housing units with very small or very large bedrooms or other specific situations that inhibit or encourage lower or higher levels of occupancy may be permitted to establish lower or higher occupancy levels so long as the occupancy levels will not discriminate on the basis of familial status.

3. The largest unit size that a family may be offered would provide no more than one bedroom per family member, taking into account family size and composition.

4. When a family applies for housing and when the waiting list is updated, some families will qualify for more than one unit size. These applicants will choose the waiting sublist where they wish to receive a unit offer. Based on the family's choice, they will be placed on the appropriate waiting sublist by unit size.

5. If a family opts for a smaller unit size than would normally be assigned under the largest unit size standard (because, for example, the list is moving faster), the family will be required to sign a statement agreeing to occupy the unit assigned at their request until their family size or circumstances change.

6. When a family is actually offered a unit, if they no longer qualify for the unit size where they were sub listed, they will be moved to the appropriate sub list, retaining their preferences and date and time of application. This may mean that they may have to wait longer for a unit offer.

7. PHA will change the family's sub list at any time while the family is on the waiting list at the family's request.

### **III. Tenant Selection and Assignment Plan**

#### **A. Organizing the Waiting List**

##### **1. Community-wide Waiting List.**

It is PHA's policy that each applicant will be assigned his/her appropriate place on a single community- wide waiting list in sequence based upon:

- type and size of unit needed and selected by the family (e.g. general occupancy building, accessible or non-accessible unit, number of bedrooms);
- applicant preference or priority, if any; and
- date and time the application is received.

PHA will maintain its waiting list in the form of a that records the type and size of unit needed, each applicant's priority/preference status, the date and time of application, and the race and ethnicity of the family head.

##### **2. Site-based Waiting List.**

If PHA elects to operate Site-based Waiting Lists, the application for such lists will be a part of PHA's Annual Plan.

- All current applicants for units of the size and type offered at developments with Site-based Waiting Lists will be given an opportunity to list up to three developments where they would accept a unit offer or to opt for the "first available" unit offer.

- Thereafter, new applicants would have the same opportunity to select up to three developments or "first available" unit offer.
- Once the initial site based lists are established, all applicants will be informed of the length of each list and have an opportunity when their application is updated to change their site selection.
- Although applicants will have an opportunity to select the sites where they wish to receive offers, the waiting list and unit offers will continue to be administered centrally.

## **B. Making Unit Offers to Applicants**

1. To assure equal opportunity and nondiscrimination on grounds of race, color, sex, religion, national origin, disability or familial status the following will be considered:

- The first qualified applicant in sequence on the waiting list is made one offer of a unit of appropriate size and type.
- The applicant must accept the vacancy offered or be dropped from the waiting list.
- Applicants who are removed from the waiting list because they refuse unit offers without good cause may not reapply for housing for 12 months.

2. PHA will first match the unit available to the highest ranking applicant for a unit of that size, type and special features (if any), taking into account any designated housing (if applicable). Preferences will then be used to determine the order of selection from the waiting list. If two applicants need the same type and size of unit and have the same preference status, the applicant with the earlier date and time of application or lower application number will receive the earliest offer.

3. In the selection of a family for a unit with accessible features, PHA will give preference to families that include a person with disabilities who can benefit from the unit features.

4. Local and ranking preferences will be a factor in most admissions, although there may be instances (e.g. a unit with accessible features is ready and no applicant in the targeted preference group needs the features) when PHA will make an offer to an applicant who does not qualify for a ranking preference. Certain types of transfers will also be processed with new admissions. See Section F. for the ratio of transfers to new admissions.

5. The applicant must accept the vacancy offered within five working days of the date the offer is communicated (by phone, mail, or the method of communication designated by an applicant with disabilities) or be removed from the waiting list. All offers made over the phone will be confirmed by letter. If unable to contact an applicant by phone or first class mail, PHA will send a certified letter, return receipt requested.

6. If more than one unit of the appropriate size and type is available, the first unit to be offered will be the unit that is or will be ready for move-in first. "Ready for move-in" means the unit has no Housing Quality Standard deficiencies and is broom clean. If two units are ready for move-in on the same day, the first unit to be offered will be the unit that became vacant first.

### **C. Removing Applicant Names from the Waiting List**

To ensure vacant units are filled in a timely manner, PHA needs a waiting list that is accurate. While each applicant must keep PHA apprised of changes in address, phone number, income or other circumstances, no applicant will be removed from the waiting list except when one of the following situations occurs:

1. The applicant receives and accepts an offer of housing;
2. The applicant requests that his/her name be removed from the waiting list;
3. The applicant is rejected, either because he/she is ineligible for public housing at the time of certification, or because he/she fails to meet the applicant selection criteria; or,
4. The application is withdrawn because PHA attempted to contact the applicant and was unable to do so. In attempting to contact to contact an applicant, the following methods will be undertaken before an application may be withdrawn:

- The applicant will be sent a letter by first class mail to the applicant's last known address, asking the applicant to contact PHA either by returning the update postcard or in person, bringing proof of identity;
- When five working days have elapsed from the date when PHA mails the letter, if there is no response from the applicant, the applicant will be sent the same letter by Certified Mail, return receipt requested;
- If an applicant contacts PHA as required within any of the deadlines stated above, he/she will be reinstated at the former waiting list position;
- When PHA is unable to contact an applicant by first class mail to schedule a meeting, or interview or to make an offer, PHA will suspend processing

of that application until the applicant is either withdrawn (no contact by the applicant) or reinstated (contact by the applicant within the stated deadlines). While an application is suspended, applicants next in sequence will be processed.

5. Persons who fail to respond to PHA attempts to contact them because of verified situations related to a disability will be entitled to reasonable accommodation. In such circumstances PHA will reinstate these individuals to their former waiting list positions.

6. Families whose applications are withdrawn or rejected must reapply for housing when the waiting list is open. Families whose applications were withdrawn may not reapply for 12 months.

#### **D. Good Cause for Applicant Refusal of Unit Offer**

If an applicant is willing to accept the unit offered but is unable to move at the time of the offer and presents clear evidence ("good cause") that acceptance of the offer of a suitable vacancy will result in undue hardship not related to considerations of race, color, sex, religion or national origin, the applicant will not be dropped to the bottom of the list.

1. Examples of "good cause" for refusal of an offer of housing are:
  - The unit is not ready for move-in at the time of the offer of housing. "Ready for move-in" means the unit has no Housing Quality Standard deficiencies and is broom clean. If an applicant refuses a unit because it is not ready for move-in, the applicant will be offered the next unit that is ready for move-in;
  - Inaccessibility to source of employment, education, or job training, children's day care, or educational program for children with disabilities, so that accepting the unit offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities;
  - The family demonstrates that accepting the offer will place a family member's life, health or safety in jeopardy. The family must provide specific and compelling documentation such as restraining orders, other court orders, or risk assessments from a law enforcement agency. Reasons

offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption;

- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (each as listed on final application) or live-in aide necessary to the care of the principal household member;
- The unit has lead paint and the family has children under the age of seven;
- The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30 day notice to move;
- An elderly or disabled family makes the decision not to occupy or accept occupancy in designated housing; or
- PHA has HUD-approved site-based waiting lists and the offer is not for one of the sites the applicant has selected.

2. If good cause is verified, the refusal of the offer will not require that the applicant be dropped to the bottom of the waiting list or otherwise affect the family's position on the waiting list.

3. PHA will maintain a record of units offered, including location, date, and circumstances of each offer, and each acceptance or refusal, including the reason for the refusal.

#### **E. Leasing Accessible Units**

1. Before offering a vacant accessible unit to a non-disabled applicant, PHA will offer such units:

- First, to a current public housing resident having a disability that requires the special features of the vacant unit.
- Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

2. When offering an accessible/adaptable unit to a non-disabled applicant, PHA will require the applicant to agree to move to an available non-accessible unit within 30 days when a current resident or an applicant with a disability needs the unit. This requirement is also reflected in the lease signed with the applicant.

#### **F. Administering the Applicant and Transfer Waiting Lists**

Applications for admission and transfer will be processed centrally. Initial intake, waiting list management, screening, and assigning of housing (including transfers) will be made from the central office. Offers may be made in person, in writing or by phone from the central office.

#### **G. Transfers**

PHA has five possible types of transfers: Emergency, Administrative - Category 1, Category 2 and Category 3, and Incentive transfers.

1. Emergency and Category 1 and 2 administrative transfers and Incentive transfers will take priority over admissions. Category 3 administrative transfers will be processed at the rate of four admissions to each transfer. The specific definitions of each type of transfer are covered in Section V, Transfers, below.

2. Tenants on the transfer list may refuse transfer offers for the "good cause" reasons cited in Section C above without losing their position on the transfer list.

3. Tenants who refuse a transfer offer without good cause may be removed from the transfer list and tenants whose transfers are mandatory are subject to lease termination.

4. Tenants may use PHA Grievance Procedure if they are refused the right to transfer or if PHA is requiring them to transfer and they do not want to do so.

### **IV. Leasing Policies**

#### **A. General Leasing ACOP**

1. All units must be occupied pursuant to a lease that complies with HUD's regulations.

2. The lease will be signed by the head, spouse, and all other adult members of the household and by the Executive Director or other authorized representative of PHA, prior to actual admission.

3. If a resident transfers from one PHA unit to another, a new lease will be executed for the dwelling into which the family moves.

4. If at any time during the life of the lease agreement, a change in the resident's status results in the need for changing or amending any provision of the lease, either:

- (a) A new lease agreement will be executed, or
- (b) A Notice of Rent Adjustment will be executed, or
- (c) An appropriate rider will be prepared and made a part of the existing lease.



All copies of such riders or insertions are to be dated and signed by the Resident and by the Executive Director or other authorized representative of PHA.

5. Residents must advise PHA if they will be absent from the unit for more than seven days. Residents will notify the manager, secure the unit and provide a means for PHA to contact the resident in an emergency. Failure to advise PHA of an extended absence is grounds for termination of the lease.

**B. Showing Units Prior to Leasing**

1. When offering units, PHA will provide the applicant with a brief property description and other information to help orient the applicant to the neighborhood and location in the property. If the offer of a unit is preliminarily accepted by the applicant, the manager of the property will contact the applicant to set up a date to show the unit.

2. Once the unit is shown and the applicant accepts the unit, the manager will execute a lease. If the applicant refuses the unit, a signed reason for refusal should be obtained from the applicant. The form is then sent to the Occupancy department for a "good cause" determination.

3. No lease will have an effective date before the unit is ready for occupancy.

**C. Additions to the Household and Visitors**

1. Only those persons listed on the most recent certification form and lease will be permitted to occupy a dwelling unit.

- Except for natural births to or adoptions by family members, or court awarded custody, any family seeking to add a new member must request approval in writing before the new member moves in.
- Also included, would be situations in which a person (often a relative) comes to the unit as a visitor but stayed on in the unit because the tenant needed support, for example, after a medical procedure.
- All persons listed on the most recent certification form and the lease must use the dwelling unit as their sole residence.

2. When a resident requests approval to add a new person to the lease, PHA will conduct pre-admission screening of any proposed new adult member to determine whether PHA will grant such approval.

Children under the age below which Juvenile Justice records are made available, or added through a formal custody award or kinship care arrangement are exempt from the pre-admission screening process, although the resident still needs prior permission from PHA to add children other than those born to, adopted by or awarded by the court to the family.

3. Examples of situations where the addition of a family or household member is subject to screening are:

- Resident plans to be married and requests to add the new spouse to the lease;
- Resident desires to add a new family member to the lease, employ a live-in aide, or take in a foster child(ren) over the age for which juvenile justice records are available;
- A unit is occupied by a remaining family member(s) under age 18 (who is not an emancipated minor) and an adult, not a part of the original household, requests permission to take over as the head of the household.

4. Residents who fail to notify PHA of additions to the household or who permit persons to join the household without undergoing screening are violating of the lease. Persons added without PHA approval will be considered unauthorized occupants and the entire household will be subject to eviction.

5. Visitors may be permitted in a dwelling unit so long as they have no previous history of behavior on PHA premises that would be a lease violation.

- Visits of less than three days need not be reported to or approved by the Manager.
- Visits of more than three and less than fourteen days are permitted, provided they are reported to the Manager within 72 hours and authorized by the manager.
- Visits of more than 14 calendar days will be authorized only by the Executive Director with advance documentation of extenuating circumstances.
- Visitors remaining beyond this period will be considered unauthorized occupants and the head of the household will be guilty of a breach of the lease.

6. Roomers and lodgers will not be permitted to move in with any family. Violation of this provision may cause termination of the lease.

7. Residents will not be given permission to allow a former resident of PHA who has been evicted to occupy the unit for any period of time. Violation of this requirement may cause termination of the lease.

8. Family members over age 17 or emancipated minors who move from the dwelling unit to establish new households will be removed from the lease.

- The resident will report the move-out within 30 calendar days of its occurrence.
- These individuals may not be readmitted to the unit and must apply as a new applicant households for placement on the waiting list.
- Medical hardship, or other extenuating circumstances will be considered by PHA in making determinations under this paragraph.

## **V. Transfer ACOP**

### **A. General Transfer ACOP**

1. Transfers will be made without regard to race, color, national origin, sex, religion, or familial status. Residents can be transferred to accommodate a disability.

2. Residents will not be transferred to a dwelling unit of equal size except to alleviate hardship of the resident or other undesirable conditions as determined by the Executive Director or designee.

3. Residents will receive one offer of a transfer. Refusal of that offer without good cause will result in lease termination for mandatory transfers or the removal of the household from the transfer list for voluntary transfers.

### **B. Types of Transfers**

1. The order in which families are transferred will be subject to the hierarchy by category set forth below.

(a) Emergency Transfers are mandatory when PHA determines that conditions pose an immediate threat to resident life, health or safety. Emergency transfers may be made to: permit repair of unit defects hazardous to life, health, or safety; alleviate verified disability problems of a life threatening nature; or protect members of the household from attack by the criminal element in a particular property or neighborhood.

**These transfers will take priority over new admissions.**

(b) Category 1 Administrative transfers include mandatory transfers to: remove residents who are witnesses to crimes and may face reprisals; provide housing options to residents who are victims of hate crimes or extreme harassment; alleviate verified medical problems of a serious (but not life-threatening) nature; permit modernization or demolition of units; perform work (e.g., repair, modernization, or lead hazard reduction work) above a specified scale and duration that disturbs lead-based paint or controls lead-based paint hazards; or permit a family that requires a unit with accessible features to occupy such a unit.

**These transfers will take priority over new admissions.**

Requests for these transfers will be made to the manager with necessary documentation to substantiate the need for such transfers. Transfers may also be initiated by PHA (e.g. moving a person with mobility problems to a unit with accessible features or temporarily moving residents to a unit free of lead-based paint hazards).

(c) Category 2 Administrative transfers correct serious occupancy standards problems.

**These transfers will take priority over new admissions.**

Category 2 transfers will only be made if the family size is so small that it includes fewer persons than the number of bedrooms, or so large that the household members over age 4 would equal more than two persons per bedroom. These transfers are mandatory.

If a family's size is between the smallest and largest size permissible for the unit, the family may request a transfer, but it will be considered a Category 3 transfer.

(d) Category 3 Administrative transfers may be made to: avoid concentration of the most economically and socially deprived families, correct occupancy standards, or address situations that interfere with peaceful enjoyment of the premises.

**These transfers will not take priority over new admissions.** They will be processed at the rate of one transfer to four admissions.

(e) Incentive Transfers: As described in detail below, Incentive Transfers are offered to new or recently modernized units, on a nondiscriminatory basis to residents with good rental histories.

2. Whenever feasible, transfers will be made within a resident's area.

### **C. Processing Transfers**

1. A centralized transfer waiting list will be administered by the Occupancy Division. Managers submit requests for transfer, including necessary documentation, to the Occupancy Specialist Manager.

2. Transfers will be sorted into their appropriate categories by the Occupancy staff. Admissions will be made in the following order:

- First: Emergency transfers, then
- Category 1 Administrative Transfers,
- Category 2 Administrative Transfers,
- Incentive Transfers,
- Applicants, and, at a rate of four applicants to every transfer,
- Category 3 Administrative Transfers

Within each category, transfer applications will be sorted by the date the completed file (including any verification needed) is received from the manager.

3. Category 2 transfers to correct occupancy standards may be recommended at time of re-examination or interim redetermination.

4. Residents in a Category 2 over/under housed status will be advised in their 30 day "Notice of Result of Reexamination" that a transfer is recommended and that the family has been placed on the transfer list.

5. When a head of a household, originally housed in a bedroom by him/herself, has or adopts a child, the family will not be approved for a Category 2 transfer until the child is two (2) years of age. Exceptions: spouse or partner returns to the unit, marriage takes place, or family decides to remain in the unit and the unit is large enough (using the smallest-unit standard) to accommodate the number of persons now in the household.

6. Split-family transfers will be processed as Category 2 administrative transfers.

- Families that split into 2 "new" households may be transferred to two different units or
- a portion of the "old" household may be transferred to a single unit depending on family circumstances and unit availability.
- Such transfers will be made in a manner that minimizes the impact on vacant units.

#### **D. Good Record Requirement for Transfers**

1. In general, and in all cases of all resident-requested transfers, residents will be considered for transfers only if the head of household and any other family members for the past two years:

- have not engaged in criminal activity that threatens the health and safety of residents and staff;
- do not owe back rent or other charges, or evidence a pattern of late payment;
- meet reasonable housekeeping standards and have no housekeeping lease violations; and,
- can get utilities turned on in the name of the head of household (applicable only to properties with tenant-paid utilities).

2. Exceptions to the good record requirements may be made for emergency transfers or when it is to PHA's advantage to make the transfer. The exception to the good record requirement will be made by the central transfer administrator taking into account the recommendation by the Manager.

Absent a determination of exception, the following policy applies to transfers:

- If back rent is owed, the resident will not be transferred until a payment plan is established or, if prior payment plans have failed, back rent is paid in full.
- A resident with housekeeping standards violations will not be transferred until he/she passes a follow-up housekeeping inspection.

#### **E. Incentive Transfers**

1. Incentive transfers are offered to residents who have good rental histories and want to move to units other than those they currently occupy on a non-discriminatory basis.

(a) Incentive Transfers -PHA may occupy recently modernized and scattered site units through incentive transfers. Modernized units will be filled with incentive transfers, new applicants, or a combination of both in a manner that has the least impact on vacant units.

(b) Resident requests for incentive transfers should be made to their Housing Manager. Managers may also recommend a resident for an incentive transfer. To be considered for an incentive transfer, the following conditions must be met:

- (i) Residency in a PHA development for at least three years.
  - (ii) No more than two repayment agreements, or unpaid balances at any time in the past two (2) years.
  - (iii) No history of disturbances that resulted in lease violations or violence toward staff or neighbors as indicated by notices of lease violation in the applicant's file.
  - (iv) Good housekeeping record.
- 2. Incentive transfers are Category 2 administrative transfers.
  - 3. No exceptions will be granted to the good record requirement for incentive transfers.
  - 4. A Manager's failure to process or recommend an Incentive Transfer is subject to the Grievance Procedure.

**F. Paying for Transfers**

- 1. Residents will bear the cost of transfers to correct occupancy standards. However, where there is a hardship due to health, disability, or other factors, the manager may recommend that families be reimbursed their out-of-pocket expenses for an occupancy standards transfer in an amount not to exceed a reasonable moving allowance established by PHA. Transfers requested or required by PHA , including those for temporary relocation during lead hazard reduction work, and all transfers for reasonable accommodations will be paid for or made by PHA.

**VI. Eligibility for Continued Occupancy, Annual Reexaminations,  
and Remaining Family Members**

**A. Eligibility for Continued Occupancy**

Residents who meet the following criteria will be eligible for continued occupancy:

- 1. Qualify as a family as defined in Section XII of this policy.
- 2. Are in full compliance with the resident obligations and responsibilities as described in the dwelling lease.
- 3. Whose family members, age 6 and older, each have Social Security numbers or have certifications on file indicating they have no Social Security number.
- 4. Who meet HUD standards on citizenship or immigration status or are paying a pro-rated rent.

5. Who are in compliance with PHA's 8 hour per month community service requirements.

**B. Remaining Family Members and Prior Debt**

1. Remaining family members age 18 years or older will be held responsible for arrearages incurred by the former head or spouse. PHA will not hold remaining family members (other than the head or spouse) responsible for any portion of the arrearage incurred before the remaining member attained age 18.

2. Remaining family members under age 18 will not be held responsible for the rent arrearages incurred by the former head of household.

**C. Reexaminations**

1. Regular reexaminations: PHA will, at least once a year, re-examine the family composition and incomes of all resident families, except that families paying Flat Rent will have their incomes reexamined only every three years.

2. Special Reexaminations: When it is not possible to estimate family income accurately, a temporary determination will be made with respect to income and a special reexamination will be scheduled every 60 days until a reasonably accurate estimate of income can be made.

3. Special reexamination will be conducted when there is a change in the head of household that requires a remaining family member to take on the responsibilities of a leaseholder.

4. New Reexamination Date Following Income Disallowance: When a family qualifies for an earned income disallowance, the date for their next regular reexamination will be permanently adjusted to be 12 months following the date that the income disallowance began.

5. Zero Income Families. Unless the family has income that is excluded for rent computation, families reporting zero income will have their circumstances examined every 60 days until they have a stable income. Monetary or non-monetary contributions from persons not residing in the dwelling unit for any purpose other than the payment or reimbursement of medical expenses will be considered income.

6. Reexamination Procedures.

(a) At the time of reexamination, all adult members of the household will be required to sign an application for continued occupancy and other forms required by HUD.



(b) Income, allowances, Social Security numbers, and such other data as is deemed necessary will be verified, and all verified findings will be filed in the resident's folder.

(c) A credit check will be run on each family at recertification to help detect any unreported income, family members not reported on the lease, etc.

(d) Verified information will be analyzed and a determination made with respect to:

(i) Eligibility of the resident as a family or as the remaining member of a family;

(ii) Unit size required for the family (using the Occupancy Guidelines); and

(iii) Rent the family should pay.

(e) Residents with a history of employment whose reexamination occurs when they are not employed will have income anticipated based on past and anticipated employment. Residents with seasonal or part-time employment of a cyclical nature will be asked for third party documentation of their employment including start and ending dates.

(f) Income will be computed in accordance with the definitions and procedures set forth in federal regulations and this policy.

(g) Families failing to respond to the initial reexamination appointment will be issued a final appointment within the same month. Failure to respond to the final request will result in the family being sent a notice of lease violation and referred to the Housing Manager for termination ease.

#### 7. Action Following Reexamination

(a) If there is any change in rent, the lease will be amended, a new lease will be executed, or Notice of Rent Adjustment will be issued.

(b) If any change in the unit size is required, the resident will be placed on a transfer list in accordance with the transfer criteria described above in this policy and moved to an appropriate unit when one becomes available.

### **VII. Interim Rent Adjustments: Fixed Rent System**

#### **A. Adjusting Rent Between Regular Reexaminations**

1. Residents are required to report all changes in family composition or status to the housing manager within ten calendar days of the occurrence. Failure to report within the ten

calendar days may result in a retroactive rent increase, but not a retroactive credit or rent reduction. In order to qualify for rent reductions, residents must report income decreases promptly. Residents are also required to report interim increases in income if they have been granted interim rent reductions.

2. PHA wishes to encourage families to improve their economic circumstances, so most changes in family income between reexaminations will not result in a rent change. PHA will process interim changes in rent in accordance with the following chart:

<u><b>INCOME CHANGE</b></u>	<u><b>PHA ACTION</b></u>
(a) Decrease in income for any reason, except for decrease that lasts less than 30 days. Increase in income following PHA granting of interim rent decrease.	<ul style="list-style-type: none"> <li>• PHA will process an interim reduction in rent if the income decrease will last more than 30 days. PHA will process an interim increase for income increases that follow interim rent reductions.</li> </ul>
(b) Increase in earned income from the employment of a current household member.	<ul style="list-style-type: none"> <li>• PHA will either defer the increase to the next regular reexamination or, if the individual is eligible for an earned income disallowance, will grant the disallowance.</li> </ul>
(c) Increase in unearned income (e.g. COLA adjustment for social security).	<ul style="list-style-type: none"> <li>• PHA will defer the increase to the next regular reexamination.</li> </ul>
(d) Increase in income because a person with income (from any source) joins the household.	<ul style="list-style-type: none"> <li>• PHA will defer the increase to the next regular reexamination.</li> </ul>
(e) PHA will process an interim increase in rent if the resident has misrepresented or failed to report facts upon which rent is based, so the rent the Resident is paying is less than it should have been. PHA will apply any increase in rent retroactive to the month following the month in which the misrepresentation occurred.	

3. Complete verification of the circumstances applicable to rent adjustments must be documented and approved by the Executive Director or designee.

4. PHA will process interim adjustments in rent as follows:

(a) When a decrease in income is reported, and the Authority receives confirmation that the decrease will last less than 30 days, an interim adjustment will not be processed.

(b) Residents reporting decreases in income that are expected to last more than 30 days will have an interim adjustment processed.

5. Residents granted a reduction in rent under these provisions will be required to report for special reexaminations at intervals determined by the Housing Manager. Reporting is required until income increases or it is time for the next regularly scheduled reexamination, whichever occurs first.

#### **B. Effective Date of Adjustments**

Residents will be notified in writing of any rent adjustment including the effective date of the adjustment.

1. Rent decreases go into effect the first of the month following the reported change. Income decreases reported or verified after the tenant accounting cut-off date will be effective the first of the second month with a credit retroactive to the first month.

2. Rent increases (except those due to misrepresentation) require 30 days notice and become effective the first of the second month.

### **VIII. Lease Termination Procedures**

#### **A. General ACOP: Lease Termination**

No resident's lease will be terminated except in compliance with HUD regulations, state law, this ACOP, and the lease terms.

#### **B. Notice Requirements**

1. No resident will be given a Notice of Lease Termination without being told by PHA in writing the reason for the termination.

- The resident must also be informed of his/her right to request a hearing in accordance with the Grievance Procedure, and be given the opportunity to make such a reply as he/she may wish.
- Lease terminations for certain actions are not eligible for the Grievance Procedure, specifically: any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or PHA employees; and any drug-related criminal activity.

2. Notices of lease termination may be served personally or posted on the apartment door.

3. Notice will include a statement describing right of any resident with a disability to meet with the manager and determine whether a reasonable accommodation could eliminate the need for the lease termination.

**C. Recordkeeping Requirements**

A written record of every termination and/or eviction will be maintained by PHA, and will contain the following information:

- Name of resident, race and ethnicity, number and identification of unit occupied;
- Date of the Notice of Lease Termination and any other state or local notices required, which may be on the same form and run concurrently;
- Specific reason(s) for the Notice(s), with section of the lease violated, and other facts pertinent to the issuing of the Notice(s) described in detail;
- Date and method of notifying resident; and
- Summaries of any conferences held with resident including dates, names of conference participants and conclusions.

**IX. Utilities**

In some of PHA's developments, residents pay the cost of certain utilities directly to the supplier. At these properties, resident rents are reduced by an Allowance for Utilities developed by PHA in consultation with the utility supplier and reviewed by HUD.

**A. Resident-Paid Utilities**

The following requirements apply to residents living in developments with resident-paid utilities:

1. Each resident will receive a monthly utility allowance that reflects a reasonable amount of utilities for the specific size and type of unit occupied.
2. When a resident's Total Tenant Payment is less than the utility allowance, PHA will pay a utility reimbursement, equal to the difference between one month's total tenant payment and the utility allowance, to the utility company on the resident's behalf.
3. When the utility supplier offers a "Budget" payment plan, it will be suggested to the resident to use this plan because it protects the resident from seasonal fluctuations in utility bills and ensures adequate heat in the winter.

4. When a resident makes application for utility service in his/her own name, he or she will sign a third-party notification agreement so that PHA will be notified if the resident fails to pay the utility bill.

5. If an applicant is unable to get utilities connected because of a previous balance owed the utility company at a prior address, applicant will not be admitted and will receive a Notice of Rejection.

6. Paying the utility bill is the resident's obligation under the PHA lease. Failure to pay utilities is grounds for lease termination and eviction.

**B. Excess Utility Charges**

1. Check-metered developments or buildings: In buildings that are check metered, residents will have consumption-based utility allowances that reflect the size and type of units and actual equipment provided by PHA. Check meters will be read by PHA and each tenant charged for consumption in excess of the utility allowance.

2. Residents with disabilities may be entitled to higher than normal utility allowances or may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability.

**X. Ceiling Rents/Flat Rents**

**A. Intent and Purpose**

Ceiling rents provide an incentive to remain in public housing to families whose flat rents were reduced because of a hardship to income-based rents and whose incomes then increased so that the income-based rent is unreasonable for the housing being provided. The ceiling rent is thus in effect only for the portion of the year between the family's interim increase in rent and their next annual reexamination (when they can elect the Flat Rent).

**B. Establishing Ceiling Rents**

PHA has established ceiling rents for all dwelling units inventory-wide. Ceiling rents for a class of units are based on the characteristics of the dwelling units, size, location or other characteristic that is unit- based. PHA may revoke or raise ceiling rents at any time after giving reasonable notice to the affected tenants.

**C. Calculating Ceiling Rents**

PHA will determine the minimum ceiling rents that can be charged for a unit. Ceiling rents are based on the flat rent plus any applicable utility allowance but never less than 75 percent of the average operating cost for units at the development.

**D. What the Resident Pays**

Tenants in units where ceiling rents are in effect pay the lower of the ceiling rent or income-based rent.

**E. Ceiling Rent Adjustments**

The minimum ceiling rent will be adjusted annually to reflect operating expenses as reported on the Statement of Operating Receipts and Expenditures as of the end of the most recent fiscal year.

**F. Flat Rents**

Flat rents are market-based rents. They vary by unit size and type and also by development location. Once each year, at the annual recertification, all residents are offered the choice of paying an income-based rent or the Flat rent. Flat rents represent the actual market value of PHA's housing units. PHA will take the following information into account in developing its Flat rent Schedule:

- Rents of non-assisted rental units in the immediate neighborhood;
- Size of PHA's units compared to non-assisted rental units from the neighborhood;
- Age, type of unit and condition of PHA's units compared to non-assisted rental units from the neighborhood;
- Land use in the surrounding neighborhood;
- Amenities (childcare, laundry facilities, playgrounds, community rooms, social services, education/job training programs, etc.) at PHA's properties and in the surrounding neighborhood;
- Crime in PHA's developments and the surrounding neighborhood;
- Quality of local schools serving each PHA development;
- Availability of public transportation at each PHA development; and,
- Availability of accessible units for persons with mobility impairments.

**G. Annual Update of Flat Rents**

PHA will review the Flat Rent structure annually and adjust the rents as needed. When a resident chooses Flat rent, his/her rent will be adjusted only at the next regular reexamination/recertification rather than at the point the Flat rent may change.

**H. Recertification of Families on Flat Rents**

Families paying flat rents are required to recertify income only every three years, rather than annually, although they are still required to participate in an Annual Reexamination in order to ensure that unit size is still appropriate and Community Service requirements (if applicable) are met.

**XI. Procedures to be Used in Determining Income and Rent**

**A. Annual Income**

Annual income is the anticipated total income from all sources, including net income derived from assets, received by the family head and spouse (even if temporarily absent) and by each additional family member including all net income from assets for the 12-month period following the effective date of initial determination or reexamination of income, exclusive of income that is temporary, non-recurring, or sporadic as defined below, or is specifically excluded from income by other federal statute. Annual income includes but is not limited to:

1. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
2. The net income from operation of a business or profession, including any withdrawal of cash or assets from the operation of the business. Expenditures for business expansion or amortization of capital indebtedness will not be used as deductions in determining the net income from a business. An allowance for the straight line depreciation of assets used in a business or profession may be deducted as provided in IRS regulations. Withdrawals of cash or assets will not be considered income when used to reimburse the family for cash or assets invested in the business;
3. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness will not be used as deductions in determining net income. An allowance for the straight line depreciation of real or personal property is permitted. Withdrawals of cash or assets will not be consider income when used to reimburse the family for cash or assets invested in the property;

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

4. The full amount of periodic payments received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts [See B. 14. below for treatment of delayed or deferred periodic payment of social security or supplemental security income benefits.];

5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay (But see paragraph B. 3. below concerning treatment of lump-sum additions as Family assets.);

6. All welfare assistance payments (Temporary Assistance to Needy Families, General Assistance) received by or on behalf of any family member;

7. Periodic and determinable allowances, such as alimony and child support payments, and regular cash and non-cash contributions or gifts received from agencies or persons not residing in the dwelling made to or on behalf of family members; and

8. All regular pay, special pay, and allowances of a family member in the Armed Forces. (See paragraph B. 7. below concerning pay for exposure to hostile fire.)

**B. Items not included in Annual Incomes**

Annual Income does not include the following:

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

2. Payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the resident family, who are unable to live alone);

3. Lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance, and worker's compensation), capital gains, one-time lottery winnings, and settlement for personal property losses (but see paragraphs 4 and 5 above if the payments are or will be periodic in nature);

4. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

5. Income of a live-in aide, provided the person meets the definition of a live-in aide;



6. The full amount of student financial assistance paid directly to the student or the educational institution;
7. The special pay to a family member serving in the Armed Forces who is exposed to armed hostilities;
8. Certain amounts received that are related to participation in the following programs:
  - (a) Amounts received under HUD-funded training programs (e.g. Step-up program, but not including HUD-funded stipends, wages, transportation payments, child care vouchers, etc. for the duration of the training);
  - (b) Amounts received by a person with disabilities that are disregarded for a limited time for purposes of Supplemental Security Income and benefits that are set aside for use under a Plan to Attain Self- Sufficiency (also known as PASS);
  - (c) Amounts received by a participant in other publicly assisted programs that are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) to allow participation in a specific program;
  - (d) A resident services stipend. A resident services stipend is a modest amount (not to exceed \$200/month) received by a public housing resident for performing a service for PHA, on a part-time basis, that enhances the quality of life in public housing. Such services may include but are not limited to, life patrol, hall monitoring, lawn maintenance, and resident initiatives coordination. No resident may receive more than one such stipend during the same period of time; and
  - (e) Incremental earnings and/or benefits resulting to any family member from participation in qualifying state of local employment training program (including training programs not affiliated with the local government), and training of family members as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for a limited period as determined in advance by PHA;
9. Temporary, non-recurring, or sporadic income (including gifts);
10. Reparation payments paid by foreign governments pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

11. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of the household and spouse);
12. Adoption assistance payments in excess of \$480 per adopted child;
13. The incremental earnings and benefits to any resident 1) whose annual income increases due to employment of a family member who was unemployed for one or more years previous to employment; or 2) whose annual income increases as the result of increased earnings by a family member during participation in any economic self sufficiency or other job training program; or 3) whose annual income increases due to new employment or increased earnings of a family member during or within six months of receiving state-funded assistance, benefits or services, will not be increased during the exclusion period;

(a) For purposes of this paragraph, "State-funded assistance, benefits or services" means any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by PHA in consultation with the local agencies administering Temporary Assistance for Needy Families ("TANF") and Welfare-to-Work programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance - provided that the total amount over a six-month period is at least \$500. During the 12 month period beginning when the member first qualifies for a disallowance, PHA must exclude from Annual Income any increase in income as a result of employment. For the 12 months following the exclusion period, 50% of the income increase will be excluded.

(b) Regardless of how long it takes a resident to work for 12 months (to qualify for the first exclusion) or the second 12 months (to qualify for the second exclusion), the maximum period for the disallowance (exclusion) is 48 months.

(c) The disallowance of increased income under this section is only applicable to current residents and will not apply to applicants who have begun working prior to admission (unless their earnings are less than would be earned working ten hours per week at minimum wage, under which they qualify as unemployed).

14. Deferred periodic payments of supplemental security income and social security benefits that are received in a lump sum payment;

15. Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit;

16. Amounts paid by a State agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home;

17. Amounts specifically excluded by any other federal law from consideration as income for purposes of determining eligibility or benefits;

Without limitation, the following list includes a list of benefits that must be excluded:

- The value of the allotment provided to an eligible household for coupons under the Food Stamp Act of 1977;
- Payments to volunteers under the Domestic Volunteer Service Act of 1973; (Examples of programs under this Act include but are not limited to: the Retired Senior Volunteer Program (RSVP), Foster Grandparent Program (FGP), Senior Companion Program (SCP), and the Older American Committee Service Program; National Volunteer Antipoverty Programs such as VISTA, Peace Corps, Service Learning Program, and Special Volunteer Programs; Small Business Administration Programs such as the National Volunteer Program to Assist Small Business and Promote Volunteer Service to Persons with Business Experience, Service Corps of Retired Executives (SCORE), and Active Corps of Executives (ACE).)
- Payments received under the Alaska Native Claims Settlement Act;
- Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes;
- Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program;
- Payments received under programs funded in whole or in part under the Job Training Partnership Act;
- Income derived from the disposition of funds of the Grand River Band of Ottawa Indians;
- The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims, or

from funds held in trust for an Indian Tribe by the Secretary of Interior;  
and

- Amounts of scholarships funded under Title IV of the Higher Education Act of 1965 including awards under the federal work-study program or under the Bureau of Indian Affairs student assistance programs;  
(Examples of Title IV programs include but are not limited to: Basic Educational Opportunity Grants (Pell Grants), Supplemental Opportunity Grants, State Student Incentive Grants, College Work Study, and Byrd Scholarships.)
- Payments received from programs funded under Title V of the Older Americans Act of 1965; "Examples of programs under this act include but are not limited to: Senior Community Services Employment Program (CSEP), National Caucus Center on the Black Aged, National Urban League, Association National Pro Personas Mayores, National Council on Aging, American Association of Retired Persons, National Council on Senior Citizens, and Green Thumb.)
- Payments received after January 1, 1989 from the Agent Orange Settlement Fund or any other fund established in the In Re Agent Orange product liability litigation;
- Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420, 94 Stat. 1785),
- The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990;
- Earned income tax credit refund payments received on or after January 1, 1991;
- Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation; and,
- Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990.

### **C. Anticipating Annual Income**

If it is not feasible to anticipate income for a 12-month period, the Authority may use the annualized income anticipated for a shorter period, subject to an Interim Adjustment at the end of the shorter period. (This method would be used for teachers who are only paid for 9 months, or for tenants receiving unemployment compensation.)

### **D. Adjusted Income**

Adjusted Income (the income upon which rent is based) means Annual Income less the following deductions and exemptions:

#### **For All Families**

1. **Child Care Expenses:** A deduction of amounts anticipated to be paid by the family for the care of children under 13 years of age for the period for which Annual Income is computed, **but only** when such care is necessary to enable a family member to be gainfully employed, to seek employment or to further his/her education. Amounts deducted must be unreimbursed expenses and will not exceed: (a) the amount of income earned by the family member released to work; or (b) an amount determined to be reasonable by PHA when the expense is incurred to permit education or to seek employment.

2. **Dependent Deduction:** An exemption of \$480 for each member of the family residing in the household (other than the head of household, or spouse, Live-in Aide, foster adult or foster child) who is under eighteen years of age or who is eighteen years of age or older and disabled, or a full-time student.

3. **Work-related Disability Expenses:** A deduction of unreimbursed amounts paid for attendant care or auxiliary apparatus expenses for family members with disabilities where such expenses are necessary to permit a family member(s), including the disabled member, to be employed. In no event may the amount of the deduction exceed the employment income earned by the family member(s) freed to work.

Equipment and auxiliary apparatus may include but are not limited to: wheelchairs, lifts, reading devices for the visually impaired, and equipment added to cars and vans to permit their use by the disabled family member. Also included would be the annualized cost differential between a car and the cost of a van required by the family member with disabilities.

4. **For non-elderly families and elderly or disabled families without medical expenses:** The amount of the deduction equals the cost of all unreimbursed expenses for work-

related disability expense less three percent of Annual Income, provided the amount so calculated does not exceed the employment income earned.

5. **For elderly or disabled families with medical expenses:** The amount of the deduction equals the cost of all unreimbursed expenses for work-related disability expense less three percent of Annual Income (provided the amount so calculated does not exceed the employment income earned) PLUS medical expenses as defined below.

**For elderly and disabled families only:**

1. **Medical Expense Deduction:** A deduction of unreimbursed Medical Expenses, including insurance premiums, anticipated for the period for which Annual Income is computed. Medical expenses include but are not limited to: services of physicians and other health care professionals, services of health care facilities, health insurance premiums (including the cost of Medicare), prescription and non-prescription medicines, transportation to and from treatment, dental expenses, eyeglasses, hearing aids and batteries, attendant care (unrelated to employment of family members), and payments on accumulated medical bills. To be considered by PHA for the purpose of determining a deduction from income, the expenses claimed must be verifiable.

2. **For elderly or disabled families without work-related disability expenses:** The amount of the deduction will equal total medical expenses less three percent of annual income.

3. **For elderly or disabled families with both work-related disability expenses and medical expenses:** The amount of the deduction is calculated as described in paragraph 3 (b) above.

4. **Elderly/Disabled Household Exemption:** An exemption of \$400 per household.

5. **Optional Deductions/Exemptions :** PHA may amend this ACOP and grant further deductions.

**E. Computing Rent**

1. The first step in computing rent is to determine each family's Total Tenant Payment. Then, if the family is occupying a unit that has tenant-paid utilities, the Utility Allowance is subtracted from the Total Tenant Payment. The result of this computation, if a positive number, is the Tenant Rent. If the Total Tenant Payment less the Utility Allowance is a negative number, the result is the utility reimbursement, which may be paid to the tenant or, directly to the utility company by PHA.

2. **Total Tenant Payment is the highest of:**

- 30% of adjusted monthly income; or
- 10% of monthly income; but never less than the
- Minimum Rent; and never more than the
- Flat Rent, if chosen by the family

3. Tenant rent is computed by subtracting the utility allowance for tenant supplied utilities (if applicable) from the Total Tenant Payment. In developments where PHA pays all utility bills directly to the utility supplier, Tenant Rent equals Total Tenant Payment.

4. The Minimum Rent will be stated in the rent sheet published by PHA, but a hardship exemption will be granted to residents who can document that they are unable to pay rent because of a long-term hardship (i.e., a hardship that lasts over 90 days). Examples under which residents would qualify for the hardship exemption to the minimum rent would be limited to the following:

- The family has lost eligibility for or is applying for an eligibility determination for a federal, State or local assistance program;
- The family would be evicted as result of the imposition of the minimum rent requirements;
- The income of the family has decreased because of changed circumstances, including loss of employment;
- A death in the family has occurred; or,
- Other circumstances as determined by PHA.

5. At initial certification and at each subsequent annual reexamination the resident will be offered a choice of paying either the income-based rent or the Flat Rent applicable to the unit they will be occupying.

## **XII. VERIFICATION**

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

### **INTRODUCTION**

The NBHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The NBHA must not pass on the cost of verification to the family.

The NBHA will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary NBHA policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the NBHA.

## **PART I. GENERAL VERIFICATION REQUIREMENTS**

### **A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]**

The family must supply any information that the NBHA or HUD determines is necessary to the administration of the program and must consent to NBHA verification of that information [24 CFR 982.551].

#### **Consent Forms**

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the NBHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

#### **Penalties for Failing to Consent [24 CFR 5.232]**

If any family member who is required to sign a consent form fails to do so, the NBHA will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with NBHA procedures.

## **B. OVERVIEW OF VERIFICATION REQUIREMENTS**

### **HUD's Verification Hierarchy**

HUD authorizes the NBHA to use the following methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the NBHA to use the most reliable form of verification that is available and to document the reasons when the NBHA uses a lesser form of verification.

#### NBHA Policy



**Upfront Income Verification (UIV):** The verification of income at admission or before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals. HUD's **Enterprise Income Verification System (EIV)** is considered to be this method.

NBHA will consult the EIV system on all applicants and participants. The EIV will be used to determine if the applicant/participant and members are in the HUD system, determine if they are being assisted by other programs in the HUD data-base, determine the income, and determine if they were previously being assisted by another PHA.

NBHA shall use the streamlined verification system allowed by HUD whenever possible. The simplifying the income verification process is as follows:

- Tenant reports income and provides current documents
- NBHA consults EIV system, and prints income details report (include in tenant file- except PHAs in Florida, who should print and maintain EIV ICN printout in the tenant file)
- If additional information is not needed, the NBHA uses the current tenant-provided documents to calculate anticipated annual income
- 3<sup>rd</sup> party verification is only required if:
  - The tenant disputes the EIV data
  - Additional information is required as determined by the NBHA, such as
    - Effective dates of employment
    - Pay rate, number of hours worked, pay frequency for new jobs
    - Confirmation of changes in circumstances (reduced hours, reduces rates of pay, etc.)

The NBHA will use current tenant-provided documents or most current information to calculate anticipated annual income

In order of priority, the forms of verification that the NBHA will use are:

1. **Enterprise Income Verification (EIV) + current tenant-provided documents**
2. **Enterprise Income Verification (EIV) + current tenant-provided documents + 3<sup>rd</sup> party verification** (Required when tenant disputes EIV data or NBHA requires additional information)
3. **Enterprise Income Verification (EIV):** The verification of income at admission or before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals.
4. **Third-Party Written:** The NBHA's next choice to supplement the EIV is a written third party verification to substantiate claims made by an applicant or resident.
5. **Third-Party Oral:** The NBHA may also use telephone verifications.

6. **Tenant Supplied Documents:** The NBHA will review documents, when relevant, to substantiate the claim of an applicant or resident.
7. **Self-Certification:** A self-certification statement will be accepted **only when extensive attempts have been made to obtain all of the other methods above and no other form of verification is available.**

Each of the verification methods is discussed in subsequent sections below. The tables at the end of this chapter contain an excerpt from the notice that provides guidance with respect to how each method may be used.

### **Requirements for Acceptable Documents**

#### NBHA Policy

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 calendar days of the date they are provided to the NBHA. The documents must not be damaged, altered or in any way illegible. All tenant supplied documents supplied should be dated within the last 60 days of the interview or reexamination. Pay stubs should be current and consecutive. For tenant supplied, the NBHA requires at least 3 current consecutive pay stubs from the tenant for tenant supplied earned income. An exception may be made for a new job in which the resident has not yet worked 3 pay periods.

The NBHA will accept documents dated within 60 days from the date of the interview if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, the NBHA would accept the most recent report.

Printouts from web pages are considered original documents.

The NBHA staff member who views the original document must make a photocopy and annotate the copy with the date the original was viewed.

Any family self-certifications must be made in a format acceptable to the NBHA and must be signed in the presence of a NBHA representative.

### **File Documentation**

The NBHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the NBHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

### **C. ENTERPRISE INCOME VERIFICATION (EIV)**

Enterprise income verification (EIV) refers to the NBHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. EIV will be used to the extent that these systems are available to the NBHA.

#### NBHA Policy

The NBHA will inform all applicants and participants of its use of the following EIV resources during the admission and reexamination process:

- HUD's EIV System
- Other 3<sup>rd</sup> Party Computer Matching

The NBHA must restrict access to and safeguard EIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

There may be legitimate differences between the information provided by the family and EIV-generated information. In case of disputes, no adverse action can be taken against a family until the NBHA has independently verified the EIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the NBHA if requested.

### **Definition of Substantial Difference**

EIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the EIV information. In "HUD Guidelines for Projecting Annual Income When EIV Data is Available" [HUD website, April 2004], HUD recommends using \$200 per month as the threshold for a substantial difference. The NBHA will therefore use \$200 per month as the threshold for a substantial difference.

See Chapter 6 for the NBHA's policy on the use of EIV to project annual income and for the NBHA's threshold for substantial difference.

### **When No Substantial Difference Exists**

If EIV information does not differ substantially from family information, the EIV documentation may serve as third-party written verification.

### **When a Substantial Difference Exists**

When there is a substantial difference between the information provided by the EIV source and the family, the NBHA must request another form of third-party written verification and use any other verification methods (in priority order) to reconcile the difference(s).

### **Use of HUD's Enterprise Income Verification (EIV) System**

HUD's EIV system contains data showing earned income, unemployment benefits, Social Security and SSI benefits for participant families. HUD requires the NBHA to use the EIV system when available. The following policies will apply when the NBHA has access to HUD's EIV system.

The EIV system contains two main components: tenant income data reports and "exceeds threshold" reports.

#### ***Enterprise Income Verification (EIV) Reports***

The data shown on EIV reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

#### **NBHA Policy**

The NBHA will obtain EIV reports for annual reexaminations on a monthly basis.

Reports will be generated as part of the regular intake and reexamination process.

EIV reports will be compared to family-provided information as part of the annual reexamination process. EIV reports may be used in the calculation of annual income, as described in Chapter 6. EIV reports may also be used to meet the regulatory requirement

for third party verification, as described above. Policies for resolving discrepancies between EIV reports and family-provided information will be resolved as described in Chapter and in this chapter.

EIV reports will be used in interim reexaminations when it is necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits. EIV reports will be retained in participant files with the applicable annual or interim reexamination documents.

When the NBHA determines through EIV reports and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

### ***Exceeds Threshold Reports (ETRs)***

The ETR is a tool for identifying families who may have concealed or under-reported income. Data in the ETR represents income for past reporting periods and may be between 6 months and 30 months old at the time ETRs are generated.

Families who have not concealed or under-reported income may appear on the ETR in some circumstances, such as loss of a job or addition of new family members.

#### **NBHA Policy**

The NBHA will generate and review ETRs on a monthly basis. The ETR threshold percentage will be adjusted as necessary based on the findings in the ETRs.

In reviewing ETRs, the NBHA will begin with the largest discrepancies.

When the NBHA determines that a participant appearing on the ETR has not concealed or under-reported income, the participant's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, participants appearing on this list will be eliminated from ETR processing until a subsequent interim or annual reexamination has been completed.

When it appears that a family may have concealed or under-reported income, the NBHA will request third-party written verification of the income in question.

When the NBHA determines through ETR review and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

### ***EIV Identity Verification***

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on Social Security Number, name, and date of birth.

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

#### **NBHA Policy**

The NBHA will identify participants whose identity verification has failed as part of the annual reexamination process.

The NBHA will attempt to resolve PIC/SSA discrepancies by reviewing file documents.

When the NBHA determines that discrepancies exist due to NBHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

## **D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION**

### **Reasonable Effort and Timing**

Unless third-party verification is not required as described below, HUD requires the NBHA to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification [VG, p. 15].

#### NBHA Policy

The NBHA will diligently seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.

The NBHA may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. The NBHA will send a written request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not been received by the 11<sup>th</sup> business day, the NBHA will request third-party oral verification.

The NBHA will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, NBHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the NBHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

If a third party agrees to confirm in writing the information provided orally, the NBHA will wait no more than 5 business days for the information to be provided. If the information is not provided by the 6<sup>th</sup> business day, the NBHA will use any information provided orally in combination with reviewing family-provided documents.

### **When Third-Party Information is Late**

When third-party verification has been requested and the timeframes for submission have been exceeded, the NBHA will use the information from documents on a provisional basis. If the NBHA later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the NBHA will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the NBHA's interim reexamination policy.

### **When Third-Party Verification is Not Required**

#### ***Primary Documents***

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

#### ***Certain Assets and Expenses***

The NBHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

The NBHA will determine that third-party verification is not available if the asset or expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification.

NBHA Policy

The NBHA will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than \$500 annually *and* the family has original documents that support the declared amount.

***Certain Income, Asset and Expense Sources***

The NBHA will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification . For example, the NBHA will rely upon review of documents when the NBHA determines that a third party's privacy rules prohibit the source from disclosing information.

NBHA Policy

The NBHA also will determine that third-party verification is not available when there is a service charge for verifying an asset or expense *and* the family has original documents that provide the necessary information.

If the family cannot provide original documents, the NBHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost.

**E. REVIEW OF DOCUMENTS**

**Using Review of Documents as Verification**

NBHA Policy

If the NBHA has determined that third-party verification is not available or not required, the NBHA will use documents provided by the family as verification.

The NBHA may also review documents when necessary to help clarify information provided by third parties. In such cases the NBHA will document in the file how the NBHA arrived at a final conclusion about the income or expense to include in its calculations.

**F. SELF-CERTIFICATION**

NBHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the NBHA.

The NBHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the NBHA and must be signed by the family member whose information or status is being verified. All self-

certifications must be signed in the presence of a NBHA representative or NBHA notary public.

**PART II. VERIFYING FAMILY INFORMATION**

**G. VERIFICATION OF LEGAL IDENTITY**

NBHA Policy

The NBHA will require families to furnish verification of legal identity for each household member.

<b>Verification of Legal Identity for Adults</b>	<b>Verification of Legal Identity for Children</b>
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) U.S. passport Employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID School records

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the NBHA’s discretion, a third party who knows the person may attest to the person’s identity. The certification must be provided in a format acceptable to the NBHA and be signed in the presence of a NBHA representative or NBHA notary public.

Legal identity will be verified on an as needed basis.

**H. SOCIAL SECURITY NUMBERS [24 CFR 5.216 ]**

For every family member, the family must provide documentation of a valid social security number (SSN), or a self-certification stating that no SSN has been issued. The self-certification must be executed personally by any family member 18 or older, or by a parent or guardian for a minor.

NBHA Policy

The NBHA requires review of the original, however, NBHA will also accept the following documents as evidence if the SSN is provided on the document:

- Driver’s license
- Other identification card issued by a federal, state, or local agency, a medical insurance company or provider, or employer or trade union
- Payroll stubs
- Benefit award letters from government agencies; retirement benefit letters; life insurance policies
- Court records (real estate, tax notices, marriage and divorce, judgment or bankruptcy records)

If the family reports an SSN but cannot provide acceptable documentation of the number, the NBHA will require a self-certification stating that documentation of the SSN cannot be provided



at this time. The NBHA will require documentation of the SSN within 60 calendar days from the date of the family member's self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided.

#### NBHA Policy

The NBHA will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.

For individuals who are at least 62 years of age and are unable to submit the required documentation of their SSN within the initial 60-day period, the NBHA will grant an additional 60 calendar days to provide documentation.

Social Security Numbers must be verified only once during continuously-assisted occupancy. If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination. In addition, if a child reaches the age of 6 and has no SSN, the parent or guardian must execute a self-certification stating that the child has no SSN at the next regularly scheduled reexamination.

The social security numbers of household members, such as live-in aids, must be verified for the purpose of conducting criminal background checks.

### **I. DOCUMENTATION OF AGE**

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

#### NBHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the NBHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously-assisted occupancy.

### **J. FAMILY RELATIONSHIPS**

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

#### NBHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

#### **Marriage**

#### NBHA Policy

Certification by the head of household is normally sufficient verification. If the NBHA has reasonable doubts about a marital relationship, the NBHA will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

## **Separation or Divorce**

### NBHA Policy

Certification by the head of household is normally sufficient verification. If the NBHA has reasonable doubts about a separation or divorce, the NBHA will require the family to document the divorce, or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

## **Absence of Adult Member**

### NBHA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

## **Foster Children and Foster Adults**

### NBHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

## **K. VERIFICATION OF STUDENT STATUS**

### NBHA Policy

The NBHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family claims full-time student status for an adult other than the head, spouse, or co-head, or

The family claims a child care deduction to enable a family member to further his or her education.

The family claims an income exclusion because the student is receiving earned income and only the first \$480 is included as income.

## **L. DOCUMENTATION OF DISABILITY**

The NBHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The NBHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The NBHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the NBHA receives a verification document that provides such information, the NBHA will not place this information in the tenant file. Under no circumstances will the NBHA request a participant's

medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at [www.os.dhhs.gov](http://www.os.dhhs.gov).

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

#### **Family Members Receiving SSA Disability Benefits**

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

##### NBHA Policy

For family members claiming disability who receive disability benefits from the SSA, the NBHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system when it is available. If documentation from HUD's EIV System is not available, the NBHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the NBHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant or participant receives the benefit verification letter they will be required to provide it to the NBHA.

#### **Family Members Not Receiving SSA Disability Benefits**

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603.

##### NBHA Policy

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

## **M. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]**

### **Overview**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and NBHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. Verification of non-citizens having temporary status will need to be re-verified prior to the expiration date. [24 CFR 5.508(g)(5)]

### **U.S. Citizens and Nationals**

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The NBHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

#### **NBHA Policy**

Family members who claim U.S. citizenship or national status will be required to provide additional documentation such as a birth certificate.

### **Eligible Immigrants**

#### ***Documents Required***

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible non-citizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-2 at the end of this chapter summarizes documents family members must provide.

#### **NBHA Verification**

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the NBHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS). The NBHA will follow all USCIS protocols for verification of eligible immigration status.

## **N. VERIFICATION OF PREFERENCE STATUS**

Not Applicable to the NBHA.

## **PART III. VERIFYING INCOME AND ASSETS**

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by

the family must be verified. This part provides NBHA policies that supplement the general verification procedures specified in Part I of this chapter.

## **O. EARNED INCOME**

### **Tips**

#### NBHA Policy

When paystubs or employer print-outs are used to verify earnings, three (3) consecutive current paystubs will be required to calculate annual income from earnings. This method will be used regardless of frequency (i.e. weekly, bi-weekly, semi-monthly, monthly). Income will be annualized using these paystubs or employer records. Exceptions to this method will be documented in the tenant file.

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

Interruption of employment due to temporary leave of absence (i.e. maternity leave, short-term disability): upon verification that earnings have stopped, an interim will be conducted to remove the income. The family may be required to complete a Zero/Extremely Low Income Questionnaire/Certification. The family is required to report any other income received in lieu of earnings. The family will be required to report when the income starts again. At that time an interim will be conducted to add the income back into the family budget.

## **P. BUSINESS AND SELF-EMPLOYMENT INCOME**

### NBHA Policy

Business owners and self-employed persons will be required to provide:

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes in the preceding year. If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The NBHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the NBHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the NBHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the NBHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

## **Q. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS**

### **Social Security/SSI Benefits**

#### NBHA Policy

To verify the SS/SSI benefits of applicants, the NBHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the NBHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant has received the benefit verification letter they will be required to provide it to the NBHA.

To verify the SS/SSI benefits of participants, the NBHA will obtain information about social security/SSI benefits through the HUD EIV System. If benefit information is not available in HUD systems, the NBHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the NBHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the participant has received the benefit verification letter they will be required to provide it to the NBHA.

## **R. ALIMONY OR CHILD SUPPORT**

#### NBHA Policy

The way the NBHA will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it *receives regular payments*, verification will be sought in the following order.

If payments are made through a state or local entity, the NBHA will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments

Verification of Child Support payments may be obtained electronically from the Child Support enforcement web site. The NBHA must have the participants case number and along with entering the case number the last four digits of the participants Social Security number must be entered.

This is only for court support payments in North Carolina.

Third-party verification from the person paying the support

Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules

Copy of the latest check and/or payment stubs

Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it *receives irregular or no payments*, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake independent enforcement action.

## **S. ASSETS AND INCOME FROM ASSETS**

### **Assets Disposed of for Less than Fair Market Value**

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The NBHA needs to verify only those certifications that warrant documentation.

#### NBHA Policy

The NBHA will verify the value of assets disposed of only if:

The NBHA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and the NBHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The NBHA has a reasonable estimate of the value of the asset; therefore, re-verification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the NBHA will verify the value of this asset.

## **T. NET INCOME FROM RENTAL PROPERTY**

### NBHA Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the NBHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

## **W. RETIREMENT ACCOUNTS**

### **NBHA Policy**

When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.

*Before* retirement, the NBHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

*Upon* retirement, the NBHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

*After* retirement, the NBHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

## **X. INCOME FROM EXCLUDED SOURCES**

A detailed discussion of excluded income is provided in Chapter 6, Part I.

The NBHA must obtain verification for income exclusions only if, without verification, the NBHA would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the NBHA will confirm that NBHA records verify the child's age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

### **NBHA Policy**

The NBHA will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, the NBHA will report the amount to be excluded as indicated on documents provided by the family.



**Y. ZERO ANNUAL INCOME STATUS**

Families claiming to have no annual income will be required to execute verification forms or NBHA executes an EIV search to determine that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household.

## **PART IV. VERIFYING MANDATORY DEDUCTIONS**

### **Z. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS**

The dependent and elderly/disabled family deductions require only that the NBHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

#### **Dependent Deduction**

See Chapter 6 for a full discussion of this deduction. The NBHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

#### **Elderly/Disabled Family Deduction**

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. The NBHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

### **AA. MEDICAL EXPENSE DEDUCTION**

Policies related to medical expenses are found in chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

#### **Amount of Expense**

##### NBHA Policy

The NBHA will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case the NBHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The NBHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, the NBHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

### **Eligible Household**

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. The NBHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 of this plan.

### **Qualified Expenses**

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 for the NBHA's policy on what counts as a medical expense.

### **Unreimbursed Expenses**

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

#### NBHA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

### **Expenses Incurred in Past Years**

#### NBHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the NBHA will verify:

The anticipated repayment schedule

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years

### **BB. DISABILITY ASSISTANCE EXPENSES**

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

### **Amount of Expense**

#### ***Attendant Care***

#### NBHA Policy

The NBHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

### ***Auxiliary Apparatus***

#### **NBHA Policy**

Expenses for auxiliary apparatus will be verified through:

Third-party verification of anticipated purchase costs of auxiliary apparatus

If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months

If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the NBHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described above).
- The expense permits a family member, or members, to work.
- The expense is not reimbursed from another source.
- The expense does not exceed the amount of the earned income of the individual freed for work.

### **Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The NBHA will verify that the expense is incurred for a person with disabilities .

### **Family Member(s) Permitted to Work**

The NBHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

#### **NBHA Policy**

The NBHA will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.).

If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

### **Unreimbursed Expenses**

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

### NBHA Policy

An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source. The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

### **CC. CHILD CARE EXPENSES**

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the NBHA must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable if seeking employment or furthering education.

### **Eligible Child**

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The NBHA will verify that the child being cared for (including foster children) is under the age of 13.

### **Unreimbursed Expense**

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

### NBHA Policy

The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

### **Pursuing an Eligible Activity**

The NBHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

### NBHA Policy

#### *Information to be Gathered*

The NBHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

#### *Seeking Work*

Whenever possible the NBHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the NBHA will request verification from the agency of the member's job seeking efforts to date and require the family to submit to the NBHA any reports provided to the other agency.

In the event third-party verification is not available, the NBHA will provide the family with a form on which the family member must record job search efforts. The NBHA will review this information at each subsequent reexamination for which this deduction is claimed.

#### *Furthering Education*

The NBHA will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

#### *Gainful Employment*

The NBHA will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

### **Allowable Type of Child Care**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

#### NBHA Policy

The NBHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6.

The NBHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The NBHA will verify the child care provider is not a family member residing in the household. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

### **Reasonableness of Expenses**

Only reasonable child care costs can be deducted for seeking employment or furthering education.

#### NBHA Policy

The actual costs the family incurs will be compared with the NBHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable. NBHA will use local welfare agency guidelines.

If the family presents a justification for costs that exceed typical costs in the area, the NBHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Income Type	Enterprise Income Verification Level 5	Written Third Party Level 4	Oral Third Party Level 3	Document Review Level 2	Tenant Declaration Level 1
<p><b>Wages/Salaries</b></p>	<p>Use of computer matching agreements with a State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail or fax or in person.</p> <p>Agreements with private vendor agencies, such as The Work Number or ChoicePoint to obtain wage and salary information.</p> <p>Use of HUD systems, when available.</p>	<p>The NBHA mails, faxes, or e-mails a verification form directly to the independent sources to obtain wage information.</p> <p>The NBHA may have the tenant sign a Request for Earnings Statement from the SSA to confirm past earnings. The NBHA mails the form to SSA and the statement will be sent to the address the NBHA specifies on the form.</p>	<p>In the event the independent source does not respond to the NBHA's written request for information, the NBHA may contact the independent source by phone or make an in person visit to obtain the requested information.</p>	<p>When neither form of third party verification can be obtained, the NBHA may accept original documents such as consecutive pay stubs (HUD recommends the NBHA review at least three months of pay stubs, if employed by the same employer for three months or more), W-2 forms, etc. from the tenant.</p> <p><b>Note:</b> The NBHA must document in the tenant file, the reason third party verification was not available.</p>	<p>The NBHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from earnings.</p> <p><b>Note:</b> The NBHA must document in the tenant file, the reason third party verification was not available.</p>

Income Type	Enterprise Income Verification Level 5	Written Third Party Level 4	Oral Third Party Level 3	Document Review Level 2	Tenant Declaration Level 1
-------------	--	-----------------------------	--------------------------	-------------------------	----------------------------

**Verification of Employment Income:** The NBHA should always obtain as much information as possible about the employment, such as start date (new employment), termination date (previous employment), pay frequency, pay rate, anticipated pay increases in the next twelve months, year-to-date earnings, bonuses, overtime, company name, address and telephone number, name and position of the person completing the employment verification form.

**Effective Date of Employment:** The NBHA should always confirm start and termination dates of employment.

<b>Self-Employment</b>	Not Available	The NBHA mails or faxes a verification form directly to sources identified by the family to obtain income information. Resident should still complete 9886 form.	The NBHA may call the source to obtain income information.	The NBHA may accept any documents (i.e. tax returns, invoices and letters from customers) provided by the tenant to verify self-employment income.  <b>Note:</b> The NBHA must document in the tenant file the reason third party verification was not obtained.	The NBHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from self-employment.  <b>Note:</b> The NBHA must document in the tenant file, the reason third party verification was not available.
------------------------	---------------	--	--	--	---

**Verification of Self-Employment Income:** Typically, it is a challenge for NBHA to obtain third party verification of self-employment income. When third party verification is not available, the NBHA should always request a notarized tenant declaration that includes a perjury statement.



Income Type	Enterprise Income Verification Level 5	Written Third Party Level 4	Oral Third Party Level 3	Document Review Level 2	Tenant Declaration Level 1
<p><b>Social Security Benefits and Supplemental Security Income (SSI) Benefits</b></p>	<p>Use HUD EIV to obtain current benefit history and discrepancy reports.</p>	<p>The NBHA mails or faxes a verification form directly to the local SSA office to obtain Social Security benefit information.</p> <p>(Not Available in some areas because SSA makes this data available through EIV SSA encourages NBHA to use EIV.)</p>	<p>The NBHA may call SSA, with the tenant on the line, to obtain current benefit amount.</p> <p>(Not Available in some areas because SSA makes this data available through EIV. SSA encourages NBHA to use EIV.)</p>	<p>The NBHA may accept an original SSA Notice from the tenant.</p> <p><b>Note:</b> The NBHA must document in the tenant file, the reason third party verification was not available.</p>	<p>The NBHA may accept a notarized statement or affidavit from the tenant that declares monthly Social Security benefits.</p> <p><b>Note:</b> The NBHA must document in the tenant file, the reason third party verification was not available.</p>
<p><b>Welfare Benefits</b></p>	<p>Use of Computer Matching Agreements with the local Social Services Agency to obtain current benefit amount electronically, by mail, fax, or in person.</p>	<p>The NBHA mails, faxes, or e-mails a verification form directly to the local Social Services Agency to obtain welfare benefit information.</p>	<p>The NBHA may call the local Social Services Agency to obtain current benefit amount.</p>	<p>The NBHA may review an original award notice or printout from the local Social Services Agency provided by the tenant.</p> <p><b>Note:</b> The NBHA must document in the tenant file, the reason third party verification was not available.</p>	<p>The NBHA may accept a notarized statement or affidavit from the tenant that declares monthly welfare benefits.</p> <p><b>Note:</b> The NBHA must document in the tenant file, the reason third party verification was not available.</p>

Income Type	Enterprise Income Verification Level 5	Written Third Party Level 4	Oral Third Party Level 3	Document Review Level 2	Tenant Declaration Level 1
<b>Child Support</b>	Use of agreement with the local Child Support Enforcement Agency to obtain current child support amount and payment status electronically, by mail or fax or in person.	The NBHA mails, faxes, or e-mails a verification form directly to the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The NBHA may call the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	<p>The NBHA may review an original court order, notice or printout from the local Child Support Enforcement Agency provided by the tenant to verify current child support amount and payment status.</p> <p><b>Note:</b> The NBHA must document in the tenant file, the reason third party verification was not available.</p>	<p>The NBHA may accept a notarized statement or affidavit from the tenant that declares current child support amount and payment status.</p> <p><b>Note:</b> The NBHA must document in the tenant file, the reason third party verification was not available.</p>

Income Type	Enterprise Income Verification Level 5	Written Third Party Level 4	Oral Third Party Level 3	Document Review Level 2	Tenant Declaration Level 1
<p><b>Unemployment Benefits</b></p>	<p>Use of computer matching agreements with a State Wage Information Collection Agency to obtain unemployment compensation electronically, by mail or fax or in person.</p> <p>Use of HUD systems, when available.</p>	<p>The NBHA mails, faxes, or e-mails a verification form directly to the State Wage Information Collection Agency to obtain unemployment compensation information.</p>	<p>The NBHA may call the State Wage Information Collection Agency to obtain current benefit amount.</p>	<p>The NBHA may review an original benefit notice or unemployment check stub, or printout from the local State Wage Information Collection Agency provided by the tenant.</p> <p><b>Note:</b> The NBHA must document in the tenant file, the reason third party verification was not available.</p>	<p>The NBHA may accept a notarized statement or affidavit from the tenant that declares unemployment benefits.</p> <p><b>Note:</b> The NBHA must document in the tenant file, the reason third party verification was not available.</p>

Income Type	Enterprise Income Verification Level 5	Written Third Party Level 4	Oral Third Party Level 3	Document Review Level 2	Tenant Declaration Level 1
<b>Pensions</b>	Use of computer matching agreements with a Federal, State, or Local Government Agency to obtain pension information electronically, by mail or fax or in person.	The NBHA mails, faxes, or e-mails a verification form directly to the pension provider to obtain pension information.	The NBHA may call the pension provider to obtain current benefit amount.	The NBHA may review an original benefit notice from the pension provider provided by the tenant.  <b>Note:</b> The NBHA must document in the tenant file, the reason third party verification was not available.	The NBHA may accept a notarized statement or affidavit from the tenant that declares monthly pension amounts.  <b>Note:</b> The NBHA must document in the tenant file, the reason third party verification was not available.
<b>Assets</b>	Use of cooperative agreements with sources to obtain asset and asset income information electronically, by mail or fax or in person.	The NBHA mails, faxes, or emails a verification form directly to the source to obtain asset and asset income information.	The NBHA may call the source to obtain asset and asset income information.	The NBHA may review original documents provided by the tenant.  <b>Note:</b> The NBHA must document in the tenant file, the reason third party verification was not available.	The NBHA may accept a notarized statement or affidavit from the tenant that declares assets and asset income.  <b>Note:</b> The NBHA must document in the tenant file, the reason third party verification was not available.

Income Type	Enterprise Income Verification Level 5	Written Third Party Level 4	Oral Third Party Level 3	Document Review Level 2	Tenant Declaration Level 1
<b>Comments</b>	Whenever HUD makes available wage, unemployment, and SSA information, the NBHA should use the information as part of the reexamination process. Failure to do so may result in disallowed costs during a RIM review.	<p><b>Note:</b> The independent source completes the form and returns the form directly to the NBHA</p> <p>The tenant should not hand carry documents to or from the independent source.</p>	The NBHA should document in the tenant file, the date and time of the telephone call or in person visit, along with the name and title of the person that verified the current income amount.		<p>The NBHA should use this verification method as a last resort, when all other verification methods are not possible or have been unsuccessful.</p> <p><b>Notarized statement should include a perjury penalty statement.</b></p>
<p><b>Note: NBHA will not pass verification costs along to the participant.</b></p>					
<p><b>Note:</b> In cases where the NBHA cannot reliably project annual income, the NBHA may elect to complete regular interim reexaminations.</p>					

**SUMMARY OF DOCUMENTATION REQUIREMENTS  
FOR NONCITIZENS**

<ul style="list-style-type: none"> <li>• <b>All</b> noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the NBHA.</li> <li>• Except for persons 62 or older, all noncitizens must sign a verification consent form</li> <li>• Additional documents are required based upon the person's status.</li> </ul>	
<p><b>Elderly Noncitizens</b></p> <ul style="list-style-type: none"> <li>• A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.</li> </ul>	
<p><b>All other Noncitizens</b></p> <ul style="list-style-type: none"> <li>• Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.</li> </ul>	
<ul style="list-style-type: none"> <li>• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)</li> <li>• Form I-94 Arrival-Departure Record annotated with one of the following: <ul style="list-style-type: none"> <li>• “Admitted as a Refugee Pursuant to Section 207”</li> <li>• “Section 208” or “Asylum”</li> <li>• “Section 243(h)” or “Deportation stayed by Attorney General”</li> <li>• “Paroled Pursuant to Section 221 (d)(5) of the USCIS”</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Form I-94 Arrival-Departure Record with no annotation accompanied by: <ul style="list-style-type: none"> <li>• A final court decision granting asylum (but only if no appeal is taken);</li> <li>• A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);</li> <li>• A court decision granting withholding of deportation; or</li> <li>• A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.</li> </ul>	<ul style="list-style-type: none"> <li>• Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.</li> </ul>
<ul style="list-style-type: none"> <li>• A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or</li> <li>• Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the <i>Federal Register</i></li> </ul>	

### **XIII. EIV Security Policy**

#### **Introduction**

The purpose of this policy is to provide Housing Authority of the City of New Bern (NBHA) guidance to assure that the practices, controls and safeguards used by NBHA adequately protect the confidentiality of the tenant wage data and are in compliance with the Federal laws regarding the protection of participant information. NBHA will integrate UIV documents and/or actions into, which also involve Privacy Act related materials, e.g., third-party income, medical and other documents.

#### **A. Privacy Act of 1974**

The data provided via the EIV system must be protected to ensure that it is only used for official purposes and not disclosed in any way that would violate the privacy of the individuals represented in the system data. Privacy of data and data security for computer systems are covered by a variety of Federal laws and regulations, government bulletins, and other guiding documents.

The Privacy Act of 1974 as amended, 5 U.S.C. § 552 (a) is one such regulation and EIV data require careful handling in order to assure NBHAs' compliance with the Privacy Act. (See Appendix 21-1. Safeguards Provided by the Privacy Act.) The Act also describes the criminal penalties associated with violation of policy supporting the Act. (See Appendix 21-2. Criminal Penalties Associated with the Privacy Act.) HUD has interagency agreements with:

- Social Security Administration for the social security (SS) and the supplemental security income (SSI) data and;
- HHS's Office of Child Support Enforcement for information furnished from the National Directory of New Hires (NDNH) data.

#### **B. Tenants Rights**

Under the Privacy Act, tenants have the right to challenge the accuracy of information maintained by the Federal government that concerns them. If a tenant disputes the employment and/or income information, the tenant must contact the employer. If the information is incorrect, the employer must correct the information and resubmit it to the state, IRS and HHS. The employer is the originator of the data.

If the tenant disputes the SS/SSI information, the tenant must contact SSA. If the SS/SSI information is incorrect, SSA must correct the information and update its database. SSA is the originator of the data.

#### **C. EIV Administrator Duties**

The NBHA's Security Officer, or designated staff, must assure that a copy of Form HUD-9886 - Authorization for the Release of Information/Privacy Act Notice, or an equivalent consent form

that meets the requirements under 24 CFR 5.230, has been signed by each member of the household age 18 years old or older and is in the household file.

By signing this form, the tenant authorizes HUD and the NBHA to obtain and verify income and unemployment compensation information from various sources including current and former employers, State agencies, SSA and HHS. HUD is relying on NBHA to have this authorization form on file as required by 24 CFR Part 5.230. Information obtained is protected under the Privacy Act.

The information processed by the EIV system includes but may not be limited to income data about private individuals; it may identify such information as Social Security Number, Address, and employment information. Once information from the EIV system becomes a part of a system maintained by the NBHA, that system and the information it contains becomes the responsibility of the NBHA. This section focuses on the procedures to be followed when UIV data becomes part of the NBHA's case files as part of the recertification process.

As a condition of receiving the UIV data, NBHA must establish and maintain certain safeguards designed to prevent unauthorized use of the information and to protect the confidentiality of that information.

The NBHA's Security Officer, or other designated staff, will have the responsibility of ensuring compliance with the NBHA's security policies and procedures outlined in this document. These responsibilities include:

- Maintaining and enforcing the security procedures;
- Keeping records and monitoring security issues;
- Communicating security information and requirements to appropriate staff, including coordinating and conducting security awareness training sessions;
- Conducting a quarterly review of all User IDs issued to determine if the users still have a valid need to access the EIV data and taking the necessary steps to ensure that access rights are revoked or modified as appropriate; and
- Reporting any evidence of unauthorized access or known security breaches to the Executive Director and taking immediate action to address the impact of the breach including but not limited to prompt notification to appropriate authorities including the HUD Field Office's Public Housing Director (See- Reporting Improper Disclosures)

#### **D. Obtaining Access to EIV Data**

The NBHA will restrict access to UIV data only to persons whose duties or responsibilities require access. The NBHA will maintain a record of users who have approved access to UIV data. Further, the NBHA will revoke the access rights of those users who no longer require such access or modify the access rights if a change in the user's duties or responsibilities indicates a change in the current level of privilege.



The NBHA shall ensure that users sign the EIV Rules of Behavior and User Agreement form, which provides general instructions on the appropriate use of the EIV resources, and apply to NBHA and contractors. UIV data should not become misplaced or available to unauthorized personnel.

#### **E. Physical Security Requirements**

NBHA may use a combination of methods to provide physical security for UIV data. These include, but are not limited to, locked containers of various types, locked rooms that have reinforced perimeters, and a locked building. The UIV data may also be maintained in locked metal file cabinets within a locked room.

Access to the areas where UIV data is maintained will be limited even during regular work hours. This will be accomplished by the use of restricted areas or locked office space. By controlling the movement of individuals and eliminating unnecessary traffic through these critical areas, NBHA will reduce the opportunity for unauthorized disclosure of UIV data.

Restricted Areas: NBHA should have any restricted areas clearly identified by the use of prominently posted signs or other indicators. The restricted areas should be separated from non-restricted areas by physical barriers that control access and/or should have limited points of entry.

If the UIV data is maintained in a security room or locked space, the NBHA will establish and maintain a key control log to track the inventory of keys available, the number of keys issued and to whom the keys are issued. All employees and contractors who have been issued keys to security rooms or locked spaces should complete a form acknowledging the receipt of the key. If used, combination locks will be changed or reset regularly, including whenever an employee leaves the NBHA's staff or office.

The NBHA security officer or designated staff will establish and maintain the list of users who can access the restricted area. The list should indicate the type of access that the user may have to the restricted area; it should indicate which users—such as contractors, maintenance, and janitorial/cleaning staff—must be escorted when entering the restricted area. The restricted area must be cleaned only during regular office hours or in the presence of NBHA staff.

#### **F. Computer System Security Requirements**

NBHA will avoid saving UIV data to a computer hard drive or any other automated information system. If UIV data is saved to a local machine at the NBHA's office, the UIV data should be stored in a separate directory from other data maintained by the NBHA. Access to this directory should be restricted to authorize users of the UIV data. Diskettes or CDs may be used to record and store remarks or comments for the sole purpose of income verification. If used, the disk or CD must be handled and secured in the same manner as the hard copy of the UIV data and must have a label which indicates "Confidential" or "For Official Use Only."

If UIV data is recorded on magnetic media with other data, it should be protected as if it were entirely UIV data. Such commingling of data sources on a single data source or tape will be avoided, if practicable.

Users will retrieve computer printouts as soon as they are generated so that UIV data is not left lying unattended in printers where unauthorized users may access them.

Authorized users of UIV data will be directed to avoid leaving UIV data displayed on their computer screens where unauthorized users may view it. A computer should never be left unattended with UIV data displayed on the screen. If an authorized user is viewing UIV data and an unauthorized user approaches the work area, the authorized user lessen the chance of inadvertent disclosure of UIV data by minimizing or closing out the screen on which the UIV data's being displayed.

User Accounts: User accounts for the EIV system will be provided on a need-to-know basis, with appropriate approval and authorization. The level of access granted determines the functionalities, features, and amounts of data within a specified NBHA jurisdiction or area of authority that the user can see. The EIV Access Authorization Form will be used to request additions, deletions, or modifications of user accounts with access rights to the WASS system. The EIV User and Operations manuals (<http://hudstage.hud.gov/offices/pih/programs/ph/rhiip/uivsystem.cfm>) provide instructions on the use of the EIV system. It also focuses on the end user functionality and administration used for viewing tenant income.

All NBHA employees and contractors who access the EIV system should have a current signed Rules of Behavior and User Agreement on file. Users should maintain the security of their user Accounts by not disclosing their passwords to other staff members and not sharing user accounts with other employees or contractors. Users should not, deliberately or inadvertently, override the authorized access levels by providing UIV data to others who have limited or no access to the data.

## **G. Destruction of Records and Clearing of Various Types of Automated Media**

EIV data will be destroyed as soon as it has served its purpose or as prescribed by the NBHA's policy and procedures. All UIV originals and any documents created in association with their use can be either shredded or burned to prevent the reconstruction of the contents.

It is essential that the methods used to dispose of records are thorough. This applies to both the destruction of record copies pursuant to records schedules as well as copies of records that are no longer needed (See HUD Handbook Nos. 2225.6 REV-1, CHG-49, 2228.1 and 2229.1 for HUD Records Disposition Schedules and Scheduling for Automated Systems.)

Magnetic tape containing UIV data must not be made available for reuse by other offices or released for destruction without first being subjected to repeated electromagnetic erasing (not less than three complete passes). It should also be noted what type of machine was used for the electromagnetic erasing. If reuse of the tapes is not intended, the tapes should be destroyed by cutting into lengths of 18 inches or less or by burning them to get a complete incineration.

If disk media is used, any UIV data on it must be destroyed by completely overwriting all data tracks a minimum of three times, using maximum current that will not damage or impair the recording equipment or by running a magnetic strip of sufficient length to reach all areas of the disk over and under each surface a minimum of three times. If the information on the disk cannot be destroyed, the disk should be damaged in a manner that would prevent its use in any disk drive unit and then discarded.

Optical disks that are not re-writable such as CDs and DVDs must be shredded in a manner similar to paper shredding. A media disposal checklist should be used to indicate if the media was destroyed. Hand tearing, recycling or burying information in a landfill is an unacceptable method of disposal of UIV data.

If the agency uses a contractor for the shredding or other record destruction process, it is recommended that the contractor certify to the destruction. If shredding is not to take place on site in the presence of an agency employee, then it is important that the terms of the contract notify the contractor of their responsibility to protect sensitive information and potential liability for unauthorized use or disclosure of personal information. Contractor personnel are to certify that they have knowledge or have received training in security procedures (regarding Privacy Act data) used to protect documents prior to their destruction.

Burning precautions: If burning is the process for disposition of the UIV material, it may be burned in an incinerator that produces enough heat to burn the entire bundle or the bundle should be separated to ensure that all pages are consumed.

#### **H. Security Awareness Training**

Security awareness training is a crucial aspect of ensuring the security of the EIV system and UIV data. Users and potential users will be made aware of the importance of respecting the privacy of data, following established procedures to maintain privacy and security, and notifying management in the event of a security or privacy violation.

Before granting employees and contractors access to UIV information, each employee and contractor must be trained in EIV security policies and procedures. Additionally, all employees having access to UIV data will be briefed at least annually on the NBHA's security policy and procedures that require their awareness and compliance.

The NBHA security officer or designated staff should record on a NBHA form or record of Security Training all the users attending each briefing. On completion of security awareness training, NBHA will make sure that employees or contractors who access the UIV data have completed a Rules of Behavior and User Agreement indicating that they are aware of the

safeguards and responsibilities associated with using the EIV system. Further, NBHA employees will be advised of the penalties associated with the provisions of the Privacy Act of 1974, Section 552(a), which makes unauthorized disclosure or misuse of tenant wage data a crime punishable by a fine of up to \$5,000. (See Section 1.3 Privacy Act Considerations and Appendix 20-2. Criminal Penalties Associated with the Privacy Act.)

The NBHA security officer may communicate security information and requirements to appropriate personnel using a variety of methods outside of the formal training and awareness sessions. These methods may include:

- Discussions at group and managerial meetings; and
- Security bulletins posted throughout the work areas.

## **I. Record Keeping and Reporting Requirements**

The records that are maintained by NBHA in implementing the EIV system are to be consistent with HUD records schedules that have been created to meet legal requirements for records management as administered by the National Archives and Records Service pursuant to 42 U.S.C. 21. **The records are to be maintained for at least five years or as prescribed by the applicable NBHA's records control policy or procedures, whichever is longer.** In addition, UIV records (both electronic and paper) and the information contained in them must be used only for their intended purpose (the administration of Federal rental assistance programs and determining tenant income eligibility) to avoid unintentional disclosures of personal private information, which would be a violation the Privacy Act of 1974.

The agreement with the Social Security Administration (SSA) to provide the social security and supplemental security information data and the HHS's Office of Child Support Enforcement to provide the income data from the National Directory of New Hires (NDNH) specifies that any incorrect information or challenge to the accuracy of information that these agencies furnish is to be referred to the agencies for disposition and not the NBHA.

Once information from UIV information becomes part of a system maintained by the NBHA, that system and the information that it contains becomes the responsibility of the NBHA. This document focuses on the policies and procedures to be followed when UIV information becomes part of NBHA's case files as part of the recertification process or the review thereof.

## **J. Record Keeping Requirements**

The EIV system presently does not support downloading of information by users. At such time as it does, it will be the responsibility of the NBHA to securely maintain that information from unauthorized access and unwarranted disclosure. Reports and screen prints of UIV information are to be maintained securely. Protection of copies of records and the information within them; Xerox copies, spreadsheets, files or records that contain personal information derived from the UIV data; are to be protected from unauthorized access and inadvertent disclosure. These documents are to be destroyed in accordance with the disposal of EIV information.

The Privacy Act also covers UIV screens that contain personal information and reports. Labeling documents as private is a protection against inadvertent disclosure. An exception from the labeling requirement is for documents derived from UIV data that are purely summary in nature, such as data aggregated at the NBHA level. The files, when not in use, are to be locked away from physical access and are to be password protected if they are on a computer.

Official file copies of Public Housing program records, UIV user administration and UIV security administration records are only to be disposed of not sooner than within 5 years of creation and following the approved program administration schedule.

#### **K. Access to UIV information.**

UIV information is available to NBHA staff within the scope of their responsibilities for the administration of Public Housing Section 8 New Construction Programs and for the administration of the EIV system itself. Thus, NBHA staff may only access records within the scope of their duties, which typically concern only their own PHA and program area. The scope of individual responsibilities may be assigned within the scope of specific Public Housing developments or projects.

NBHA may administer rental assistance programs for other PHAs under a contract(s) or cooperative agreement(s) and individual assignments covering more than one PHA are to be documented in the application for access in the User Administration file. When NBHA services more than one PHA, project and/or contract, the records from the different PHAs are not to be co-mingled with other PHA's file records and/or data.

The scope of responsibility of anyone who accesses the EIV system is documented in the EIV User Administration file and the User Administrator or Security Administrator/Officer should be consulted if there is an issue. The Security Administrator/Officer also is to be consulted if there is an issue regarding access by individuals who do not have access to EIV system but who may be responsible for occupancy specialist type functions.

Any issue regarding the possible disclosure to third parties of information from UIV files, including records derived from those files and case files in which UIV data has been incorporated should be referred to the NBHA security officer or designee responsible (in writing). If a security violation may already have occurred such as improper disclosure of information to a third party, the NBHA's security officer or designee should notify NBHA's security administrator and/or the HUD Office of Inspector General. See Section 5.0 – Reporting Improper Disclosures.

NBHA staff should not re-disclose the UIV data it receives without proper authorization from the NBHA's security officer or designee. When the re-disclosure of the UIV data is authorized, information disclosed outside of the NBHA's office/agency must be recorded on a list, which reflects to whom the disclosure was made, what was disclosed, why and when it was disclosed and when and if it was returned.

## **L. Reporting Improper Disclosures**

Recognition, reporting, and disciplinary action in response to security violations are crucial to successfully maintaining the security and privacy of the EIV system. These security violations may include the disclosure of private data as well as attempts to access unauthorized data and the sharing of User IDs and passwords. Upon the discovery of a possible improper disclosure of UIV information or another security violation by a NBHA employee or any other person, the individual making the observation or receiving the information should contact the NBHA's security officer and/or the Field Office's Office of Public Housing Director. The NBHA security officer or designated staff should document all improper disclosures in writing providing details including who was involved, what was disclosed, how the disclosure occurred, and where and when it occurred.

The following steps should be made:

- The NBHA security officer should contact and provide the Executive Director or the designee with the written documentation;
- The Executive Director or the designee should provide the HUD Field Office Public Housing Director with the written documentation; and,
- The HUD Field Office Public Housing Director upon receipt of the written documentation will make a determination regarding the referral and the provision of the written documentation to the Headquarters EIV Coordinator and/or EIV Security Officer for further review and follow-up action.

## **M. NBHA Security Assessment**

The practices and controls used by HUD and NBHA to secure upfront income verification information may be grouped into three categories: technical safeguards, administrative safeguards, and physical safeguards. Various technical safeguards have been built into the EIV system to mitigate the risk of security violations.

However, technical safeguards alone, without complementary physical safeguards and/or administrative safeguards do not meet HUD's standard for the protection of private data. HUD has implemented various physical and administrative safeguards to complement the technical safeguards. NBHA is strongly encouraged to take all reasonable steps to implement a combination of technical, physical, and administrative safeguards in order to assure that EIV data is appropriately secured. The physical and administrative safeguards that are implemented by NBHA must be appropriate when considered in combination with the technical safeguards available to NBHA through the EIV system.

The security safeguards described throughout the Security Policy are consolidated below. NBHA will assess their Privacy Act-related safeguards by reviewing the following safeguard options.

### **1. Technical Safeguards**

#### **A. Purposes of the Technical Safeguards**

- Reduce the risk of a security violation related to the EIV system's software, network, or applications
- Identify and authenticate all users seeking access to the UIV data
- Deter and detect attempts to access the system without authorization
- Monitor the user activity on the EIV system

#### B. Description of the Technical Safeguards

The technical controls that have been built into the EIV system address the following:

- User Identification and Authentication
  - Each user is required to have their own User ID and Password
  - The User ID identifies the NBHA and tenant information that the user is authorized to access
  - Passwords are encrypted and the password file is protected from unauthorized access
  - The system forces all users to change their password every 21 days and limits the reuse of previous passwords
  - After three unsuccessful attempts to log in, the User ID is locked and the user has to contact the System Administrator to have the password reset
- Online User Alerts
  - Online warning messages that inform the user of the civil and criminal penalties associated with unauthorized use of the UIV data

## 2. Physical Safeguards

NBHA may implement any combination of the following physical safeguards that (a) meets acceptable standards for the protection provided by the specific safeguard, (b) accomplishes the purpose of the safeguards, and (c) conforms to standards of security stated here and elsewhere in this document.

#### A. Purposes of the physical safeguards

- Provide barriers between unauthorized persons and documents containing private data
- Provide barriers between unauthorized persons and computer media containing files that contain private data
- Prevent undetected entry to protected areas and/or to protected documents or computer media
- Provide immediate notification, noticeable under normal operating conditions, if the barrier is penetrated by unauthorized persons
- Prevent viewing or sensing of private information by any person by any means from outside the area confined by the barrier
- Allow authorized persons to have monitored and controlled access to protected private data

#### B. Alternatives for physical safeguards

- Locked and monitored buildings, offices, or storage rooms

- Locked and monitored metal file cabinets
- Designated secure areas and equipment
  - Security rooms or locked office space with limited (minimum required) points of entry (e.g., doors)
  - Security rooms or locked office space with limited (minimum required) means of entry (e.g., keys)
  - Restricted areas with prominently posted signs or other indicators identifying them and limited points of entry
  - Physical and administrative means for monitoring access to the secure areas and access and use of the protected data
  - Restricted use printers, copiers, facsimile machines, etc.
  - Secure computer systems and output
- Store UIV data in a separate, restricted-access directory if files are saved to local machine
  - Label all diskettes containing UIV data “Confidential” or “For Official Use Only”
  - Retrieve all computer printouts as soon as they are generated so that UIV data is not left lying unattended in printers
  - Avoid leaving a computer unattended with UIV data displayed on the screen
- Secure disposal of UIV information
  - Destroy as soon as it has served its purpose or as prescribed by the PHA’s policy and procedures
  - All UIV originals and copies should either be burned or shredded

### 3. Administrative Safeguards

NBHA may implement any combination of the following administrative safeguards that (a) meets acceptable standards for the protection provided by the specific safeguard, (b) accomplishes the purpose of the safeguards, and (c) conforms to standards of security stated here and elsewhere in this document.

#### A. Purposes of the administrative safeguards

- Ensure that access rights, roles, and responsibilities are appropriately and adequately assigned
- Maintain security-related records
- Monitor programmatic security issues
- Maintain, communicate, and enforce standard operating procedures related to securing UIV data
- Monitor access to protected private data located within the barriers of physical safeguards
- Control access to protected private data located within the barriers of physical safeguards

#### B. Alternatives for administrative safeguards

NBHA should implement administrative safeguards to address the following:



- Assigning and Monitoring Access Rights
  - Determine which users should have access to UIV information
  - Maintain a record of all users who have approved access to UIV data including the date the access was granted and the date access was terminated
  - Ensure that all users who access the EIV system have a current signed User Agreement on file
  - Conduct a quarterly review of all User IDs to determine if the user still has a valid need to access the UIV data
  - Ensure that access rights are modified or revoked as appropriate
- Keeping Records and Monitoring Security Issues
  - Assure that a copy of Forms HUD-9886 has been signed by each adult member of the household and is kept in the household file
  - Maintain a key control log to track the inventory of keys available for secure buildings, rooms, or file cabinets, the number of keys issued and to whom the keys are issued
  - Ensure that all employees and contractors who have been issued keys to secure areas complete a form acknowledging the receipt of the key
  - Maintain a log of all users who access designated secure areas including the date and time of entry and exit and the purpose of the access
  - Ensure that combination locks are reset regularly, including whenever an employee leaves the NBHA's staff or office
  - Ensure that UIV information is disposed of in an appropriate manner
  - Maintain a log of all documents that have been burned or shredded including the name of the employee who conducted the disposal, a description of the documents, the method of disposal, and the date of the disposal.
- Conducting Security Awareness Training
  - Ensure that all users of UIV data receive training in UIV security policies and procedures at the time of employment and at least annually afterwards
  - Maintain a record of all personnel who have attended training sessions
  - Communicate security information and requirements to appropriate personnel using various methods including discussions at group and managerial meetings and security bulletins posted throughout the work areas
  - Distribute all User Guides and Security Procedures to personnel using UIV data
- Reporting Improper Disclosures
  - Report any evidence of unauthorized access or known security breaches to the Executive Director and the HUD Field Office Public Housing Director)
  - Document all improper disclosures in writing
  - Report all security violations regardless of whether the security violation was intentional or unintentional

### **Safeguards Provided by the Privacy Act**

The Privacy Act provides safeguards for individuals against invasions of privacy by requiring Federal agencies, except as otherwise provided by law or regulation, to:

1. Permit individuals to know what records pertaining to them are collected, maintained, used, or disseminated;
2. Allow individuals to prevent records pertaining to them, obtained for a particular purpose, from being used or made available for another purpose without their consent;
3. Permit individuals to gain access to information pertaining to them, obtain a copy of all or any portions thereof, and correct or amend such records;
4. Collect, maintain, use, or disseminate personally identifiable information in a manner that ensures the information is current and accurate, and that adequate safeguards are provided to prevent misuse of such information;
5. Permit exemption from the requirements of the Act only where an important public policy need exists as determined by specific statutory authority; and
6. Be subject to a civil suit for any damages that occur as a result of action that violates any individual's rights under this Act.

### **Criminal Penalties Associated with the Privacy Act**

The Privacy Act of 1974 as amended, 5 U.S.C. § 552 (a)(i)

1. **CRIMINAL PENALTIES.**--Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established there under, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
2. Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than \$5,000.

3. Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000.

Warnings in the EIV system welcome page provide a reminder each time the user logs in of the security considerations of the EIV system.

## **XIV. Domestic Violence Policy**

### **A. Background**

On January 5, 2006, President Bush signed VAWA (Violence Against Women Act) into law as **Public Law 109-162**. VAWA was passed to protect certain victims of criminal domestic violence, dating violence, sexual assault, or stalking, as well as members of the victims' immediate family from being denied or losing their HUD assisted housing as a consequence of the abuse of which they were a victim through no fault of their own.

### **B. Definitions**

- **Domestic Violence** – Is not limited to violence between individuals who are married or formerly married or who have a child in common. It includes threats and any other conduct that causes a reasonable apprehension of violence by any person.
- **Dating Violence** – Violence committed by a person who has been in a social relationship of a romantic or intimate nature with the victim.
- **Elder Abuse** – Any action against a person who is 50 years of age or older that constitutes the willful;
  1. Infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or
  2. Deprivation by a person, including a caregiver, of goods or services with the intent to cause physical harm, mental anguish, or mental illness.
- **Sexual Assault** – Any undesired physical contact of a sexual nature perpetrated against another person.
- **Stalking** – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to;
  1. Fear for his or her safety or the safety of others; or
  2. Suffer substantial emotional distress.
- **Personal Protection Order** – An individual can petition the family division of circuit court to enter a personal protection order to restrain or enjoin a spouse, a former spouse, and individual with whom he or she has a child in common, and individual with whom he or she had or has had a dating relationship, or an individual residing or having resided in the same household as the petitioner from doing one or more of the following;
  1. Entering onto premises.
  2. Assaulting, attacking, beating, molesting, or wounding a named individual.
  3. Threatening to kill or physically injure a named individual.

4. Removing minor children from the individual having legal custody of the children, except as otherwise authorized by custody or parenting time order issued by a court of competent jurisdiction.
  5. Any other specific act or conduct that imposes upon or interferes with the personal liberty or that causes a reasonable apprehension of violence.
- **Perpetrator** – The primary aggressor in a violent relationship. In situations where there is doubt as to who the primary aggressor is in a violent relationship, appropriate considerations include;
    1. The severity of injuries each person has received as a result of the violence.
    2. Any history of complaints of domestic violence against either individual, household members’ and others’ accounts of the history of the domestic violence; and
    3. Whether one person acted in self-defense.

**C. Eligibility Screening**

An applicant household shall not be denied housing solely because it includes a victim of domestic violence, provided that the perpetrator of domestic violence is not a member of the applicant household. In determining eligibility for housing in cases where the Housing Authority of the City of New Bern (the Authority) has been made aware that the household includes a victim of domestic violence the following will be considered;

- **Negative and Potentially Disqualifying Information** – Such as poor credit history, previous damage to a rental property, prior arrests, inquiries will be made regarding the circumstances contributing to this negative reporting, to ascertain whether these past events were the consequence of domestic violence against a member of the applicant household. (Any such inquiries will make clear that members of applicants household have a right to keep any history of domestic violence against them confidential.) Each application will be judged case by case and final approval for housing will be made by the Executive Director.
- **Verification of Domestic Violence** – The Authority may accept any of the following as verification of the existence of domestic violence within the household;
  1. Credible statement from victim, including HUD authorized Certification Form.
  2. Statement of workers from a domestic violence shelter or other domestic violence program.
  3. Statement from counselors.
  4. Medical records.
  5. Reports and statements from police, judges, and other court officials, clergy, social workers, and other service agencies.
  6. Any other credible evidence.

**D. Waiting List Preference**

The Authority does not provide emergency housing and does not provide for any preferences.

**E. Conditions of Continued Occupancy**

The Authority will make every effort to work with residents who are victims of domestic violence we must also consider the rights of all residents to safety and quiet enjoyment.

**(Individuals will not be terminated from housing assistance solely because they are**

**victims of domestic violence, or because they have sought the assistance of the police or the courts.)** The following will be enforced for all residents;

- **Banned List** – All new residents with existing domestic violence issues will be asked to provide the name and contact information of the perpetrator. The perpetrator's name will be immediately added to the Authority Banned List and the resident household informed that inviting the perpetrator onto Housing Authority property will be grounds for immediate termination. (Resident location will be kept confidential until such time as the perpetrator trespasses on Housing Authority property or otherwise threatens household members. At that time the offender will be mailed a notification of Banned status.)
- **One Strike for Perpetrators** – Any household member arrested, charged, or convicted of domestic violence, dating violence, stalking, or sexual assault of another household member will be immediately removed from the lease (Public Law 109-162 119 STAT 3042 Sec 603 (c) (ii) allows public housing authorities to bifurcate the residential lease in order to evict, remove, or terminate assistance to an individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.) and removed by force of law from the premises. The offender will then be added to the Authority Banned list and the household and perpetrator informed of Banned status.
- **Rent Re-determination** – It is the responsibility of all resident to inform the Authority of any changes to family composition or income information. The rent which had previously been determined based on the income of an abusive family member will be adjusted to reflect the household's changed circumstances. The adjustment will become effective the first day of the month following the month in which the change was reported.

**F. Family Break-up Policy**

- When a household receiving assistance breaks up and domestic violence is a factor, first priority will be given to the best interest of the family.
- The Authority will take into consideration any court determination of the family members' respective rights as to housing assistance, including a determination set out in a personal protection order.

**G. Transfer Policy**

- All residents are required to give written notice to the Authority before moving out or terminating the lease. If the household must move to protect a member's safety it will be responsible to the Authority for their share of rent and to follow program rules until the Authority releases tenant from their lease obligations. The Authority may also refer residents to local legal service agencies for assistance.
- The Authority will make every effort, once the domestic violence has been verified to assist the family in transferring to a different unit provided:
  1. That an approved size unit is available, and;

2. That the transfer is approved by the Executive Director or his approved representative.

#### **H. Responsibility of the Authority**

- **Confidentiality** – Any documentation or evidence supplied by an individual to verify domestic violence will be kept strictly confidential and will not be shared with any person other than relevant Authority decision makers and law enforcement officials unless the individual voluntarily waives confidentiality.
- **Linkages with community resources** – The Authority will work with household members, family members, and local law enforcement to help ensure the safety of all residents. When the Housing Authority becomes aware that a resident or household member is experiencing or has experienced domestic violence, the Authority may refer him or her to domestic violence advocates. The Housing Authority will also inform the individual that local legal service agencies are available to provide assistance and representation to domestic violence victims in obtaining and maintaining personal protection orders, custody orders, exclusive use of the home, and other necessary legal remedies for victims of domestic violence. The Authority will also ensure that the individual has contact information for local emergency response agencies.

#### **XV. Definitions**

The following definitions apply to this ACOP and other PHA policies, unless otherwise defined in a particular provision, policy, law, or HUD regulation.

1. **Accessible dwelling units:** When used with respect to the design, construction or alteration of an individual dwelling unit, means that the unit is located on an accessible route and when designed, constructed, altered, or adapted can be approached, entered, and used by individuals with physical disabilities. A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in 24 CFR § 8.32 & § 40 (the Uniform Federal Accessibility Standards) is “accessible” within the meaning of this paragraph. When an individual dwelling unit in an existing facility is being modified for use by a specific individual, the unit will not be deemed accessible, even though it meets the standards that address the impairment of that individual, unless it also meets the Uniform Federal Accessibility Standards.
2. **Accessible Facility:** All or any portion of a facility other than an individual dwelling unit used by individuals with physical disabilities.
3. **Accessible Route:** For persons with a mobility impairment, a continuous unobstructed path that complies with space and reach requirements of the Uniform

Federal Accessibility Standards. For persons with hearing or vision impairments, the route need not comply with requirements specific to mobility.

- 4. Adaptability:** Ability to change certain elements in a dwelling unit to accommodate the needs of disabled and non-disabled persons; or ability to meet the needs of persons with different types & degrees of disability.
- 5. Adult:** A Person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State or tribal law.
- 6. Alteration:** Any change in a facility or its permanent fixtures or equipment. It does not include: normal maintenance or repairs, reroofing, interior decoration or changes to mechanical systems.
- 7. Applicant:** A person or a family that has applied for admission to housing.
- 8. Area of Operation:** The jurisdiction of the PHA as described in applicable State law and the PHA's Articles of Incorporation.
- 9. Assets:** Cash (including checking accounts), stocks, bonds, savings, equity in real property, or the cash value of life insurance policies. Assets do not include the value of personal property such as furniture, automobiles and household effects or the value of business assets.  
**IMPORTANT:** See the definition of Net Family Assets, for assets used to compute annual income.
- 10. Auxiliary Aids:** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of programs or activities.
- 11. Care Attendant:** A person that regularly visits the unit of a PHA resident to provide supportive or medical services. Care attendants are not live-in aides, since they have their own place of residence (and, if requested by PHA, must demonstrate separate residence) and do not live in the public housing unit. Care attendants have no rights of tenancy.
- 12. Co-head of Household:** A household where two persons are held responsible and accountable for the family, and where each co-head contributes to the rent.

- 13. Covered Person:** For the purposes of screening and terminating tenancy for criminal activity, a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.
- 14. Dependent:** A member of the household, other than head, spouse, sole member, foster child, or Live-in Aide, who is under 18 years of age, or 18 years of age or older and disabled, or a full-time student, and qualifies for a \$480 deduction when computing income-based rent.
- 15. Designated Family:** The category of family for whom PHA elects (subject to HUD approval) to designate a project (e.g. elderly family in a project designated for elderly families) in accordance with the 1992 Housing Act.
- 16. Designated housing (or designated project):** A project(s), or portion of a project(s) designated for elderly only or for disabled families only.
- 17. Disabled Family:** A family whose head, spouse or sole member is a person with disabilities. The term includes two or more persons with disabilities living together, and one or more such persons living with one or more persons including live-in aides determined to be essential to the care and well-being of the person or persons with disabilities. A disabled family may include persons with disabilities who are elderly.
- 18. Displaced Person:** A person displaced by government action or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise recognized pursuant to Federal disaster relief laws. This definition is used for eligibility determinations only. It should not be confused with the former Federal preference for involuntary displacement.
- 19. Divestiture Income:** Imputed income from assets, including business assets, disposed of by applicant or resident in the last two years at less than fair market value.
- 20. Drug:** A controlled substance as defined in the Controlled Substances Act.
- 21. Drug-related Criminal Activity:** The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell distribute or use the drug.
- 22. Elderly Family:** A family whose head or spouse (or sole member) is at least 62 years of age. It may include two or more elderly persons living together, and one or



more such persons living with one or more persons, including live-in aides, determined to be essential to the care and well-being of the elderly person or persons. An elderly family may include elderly persons with disabilities and other family members who are not elderly.

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

**24. Extremely Low Income Family:** A Family whose Annual Income is equal to or less than 30% of Area Median Income, as published by HUD.

**25. Family:** Two or more persons (with or without children) regularly living together, related by blood, marriage, adoption, guardianship or operation of law who will live together in PHA housing. The term family also includes the following terms defined in this Section:

- Elderly family
- Near elderly family
- Disabled family
- Displaced person
- Single person
- Remaining member of a tenant family,
- A foster care arrangement, or a kinship care arrangement

Other persons, including members temporarily absent (e.g. a child placed in foster care or a student away at college), may be considered a part of the applicant family's household if they are living or will live regularly with the family.

- Live-in Aides may also be considered part of the applicant family's household.

However, live-in aides are not *family* members and have no rights of tenancy or continued occupancy.

- Foster care arrangements include situations in which the family is caring for a foster adult, child or children in their home who have been placed there by a public child placement agency, or a foster adult or adults placed in the home by a public adult placement agency. For purposes of continued occupancy: the term family also includes the remaining member of a resident family with the capacity to execute a lease.

**26. Full-Time Student:** A person who is carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. Educational institution shall include but not be limited to: college, university, secondary school, vocational school or trade school.

**27. Guest:** For the purposes of determining whether an individual's criminal activity is the responsibility of the tenant, a guest is a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. The requirements of the lease apply to a guest as so defined.

**28. Head of the Household:** The family member (identified by the family) who is held responsible and accountable for the family.

**29. Household:** The family and a PHA-approved Live-in Aide.

**30. Individual with Disabilities:** Individual with disabilities means any person who has:

(a) A physical or mental impairment that:

- substantially limits one or more major life activities;
- has a record of such an impairment; or,
- is regarded as having such an impairment.

(b) For purposes of housing programs, the term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

(c) Definitional elements:

“Physical or mental impairment” means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, but

is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

“Major life activities” means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

“Has a record of such an impairment” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

“Is regarded as having an impairment” means has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation; or has a physical or mental impairment that substantially limits one or more major life activities only as result of the attitudes of others toward such impairment; or has none of the impairments defined in this section but is treated by a recipient as having such an impairment.

**31. Kinship Care:** An arrangement in which a relative or non-relative becomes the primary caregiver for a child or children but is not the biological parent of the child or children. The primary caregiver need not have legal custody of such child or children to be a kinship caregiver under this definition.

**32. Live-in Aide:** A person who resides with an elderly person(s), near elderly person(s) or person(s) with disabilities and who: (a) is determined by PHA to be essential to the care and well being of the person(s); (b) is not obligated to support the family member; and (c) would not be living in the unit except to provide the necessary supportive services. PHA policy on Live-in Aides stipulates that:

(a) Before a Live-in Aide may be moved into a unit, a third-party verification must be supplied that establishes the need for such care and the fact that the live-in aide is qualified to provide such care;

(b) Move-in of a Live-in Aide must not result in overcrowding of the existing unit according to the maximum-number-of-persons-per-unit standard (although, a reasonable accommodation for a resident with a disability may be to move the family to a larger unit);

(c) Live-in Aides have no right to the unit as a remaining member of a resident family;

(d) Relatives who satisfy the definitions and stipulations above may qualify as Live-in Aides, but only if they sign a statement prior to moving in relinquishing all rights to the unit as the remaining member of a resident family;

(e) A Live-in Aide is a single person;

(f) A Live-in Aide will be required to meet PHA's screening requirements with respect to past behavior, especially: A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at present or prior residences that may adversely affect the health, safety, or welfare of other tenants or neighbors; Criminal activity such as crimes of physical violence to persons or property and other criminal acts including drug-related criminal activity that would adversely affect the health, safety, or welfare of other residents or staff or cause damage to the unit or the development; and a record of eviction from housing or termination from residential programs.

**33. Low-Income Household:** A family whose annual income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller and larger families

**34. Medical Expense Allowance:** For purposes of calculating adjusted income for elderly or disabled families only, medical expenses mean the medical expense in excess of 3% of Annual Income, where these expenses are not compensated for or covered by insurance.

**35. Minor:** A minor is a person less than 18 years of age. An unborn child will not be considered as a minor. Some minors are permitted to execute contracts, provided a court declares them "emancipated".

**36. Mixed Population Project:** A public housing project for elderly and disabled families. The PHA is not required to designate this type of project under the Extension Act.

**37. Multifamily Housing Project:** For purposes of Section 504, means a project containing five or more dwelling units.

**38. Near-elderly Family:** A family whose head, spouse, or sole member is a near-elderly person (at least 50 but less than 62 years of age), who may be a person with a disability. The term includes two or more near-elderly persons living together, and one or more such persons living with one or more persons who are determined to be essential to the care or well-being of the near-elderly person or persons. A near-elderly family may include other family members who are not near-elderly.

**39. Near-elderly Person:** A person who is at least 50 years of age but below 62, who may be a person with a disability

**40. Net Family Assets:** The net cash value, after deducting reasonable costs that would be incurred in disposing of:

- (a) Real property (land, houses, mobile homes)
- (b) Savings (CDs, IRA or KEOGH accounts, checking and savings accounts, precious metals)
- (c) Cash value of whole life insurance policies
- (d) Stocks and bonds (mutual funds, corporate bonds, savings bonds)
- (e) Other forms of capital investments (business equipment)

Net cash value is determined by subtracting the reasonable costs likely to be incurred in selling or disposing of an asset from the market value of the asset. Examples of such costs are: brokerage or legal fees, settlement costs for real property, or penalties for withdrawing saving funds before maturity. Net Family assets also include the amount in excess of any consideration received for assets disposed of by an applicant or resident for less than fair market value during the two years preceding the date of the initial certification or reexamination. This does not apply to assets transferred as the result of a foreclosure or bankruptcy sale. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be less than fair market value if the applicant or resident receives important considerations not measurable in dollar terms.

**41. Other Person Under the Tenant's Control:** The person, although not staying as a guest in the unit is or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to

the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control (e.g. the pizza delivery person).

**42. Person with Disabilities:** A person who:

(a) Has a disability as defined in Section 223 of the Social Security Act; or,

(b) Has a physical, mental or emotional impairment that:

- Is expected to be of long continued and indefinite duration;
- Substantially impedes his/her ability to live independently; and,
- Is of such nature that such disability could be improved by more suitable housing conditions; or,

(c) Has a developmental disability as defined in Section 102 (5) (b) of the Developmental Disabilities Assistance and Bill of Rights Act.

**43. Portion of Project:** Includes, one or more buildings in a multi-building project; one or more floors of a project or projects; a certain number of dwelling units in a project or projects.

**44. Project:** The whole of one or more residential structures and appurtenant structures; equipment; roads; walks; and parking lots that are covered by a single contract for Federal financial assistance or application for assistance.

**45. Premises:** The building or complex or development in which the public housing dwelling is located, including common areas and grounds.

**46. Single Person:** A person who is not an elderly person, a person with disabilities, a displaced person, or the remaining member of a resident family.

**47. Spouse:** Spouse means the husband or wife of the head of the household.

**48. Tenant Rent:** The amount payable monthly by the Family as rent to PHA. Where all utilities (except telephone) and other essential housing services are supplied by the Authority, Tenant Rent equals Total Tenant Payment. Where some or all utilities (except telephone) and other essential housing services are not supplied by the PHA and the cost thereof is not included in the amount paid as rent, Tenant Rent equals Total Tenant Payment less the Utility Allowance.

**49. Total Tenant Payment (TTP):** The TTP, or income-based rent, is calculated using the following formula: The greatest of 30% of the monthly Adjusted Income (as

defined in these policies) or 10% of the monthly Annual Income (as defined in these policies), or the Welfare Rent if applicable, but never less than the Minimum Rent or greater than the Ceiling Rent, if any. If the Resident pays and of the utilities directly to the utility supplier, the amount of the Utility Allowance is deducted from the TTP. See the definition for Tenant Rent.

**50. Uniform Federal Accessibility Standards:** Standards for the design, construction, and alteration of publicly owned residential structures to insure that physically disabled persons will have ready access to and use of such structures.

**51. Utilities:** Utilities means water, electricity, gas, other heating, refrigeration and cooking fuels, trash collection, and sewerage services. Telephone service is not included as a utility.

**52. Upward Mobility Preference:** An admissions preference granted when:

(a) A family can verify employment of an adult member:

(i) Employment at the time of the offer — To receive this preference the applicant family must have at least one family member, age 18 or older, employed at the time of PHA's offer of housing. Employment at the time of the offer must be for the 90 day period immediately prior to the offer of housing and provide a minimum of 20 hours of work per week for the family member claiming the preference.

(ii) Employment periods may be interrupted, but to claim the preference, a family must have an employed family member prior to the actual offer of housing as described above.

(iii) A family member that leaves a job will be asked to document the reasons for the termination. Someone who quits work after receiving benefit of the preference (as opposed to layoff, or taking a new job) will be considered to have misrepresented the facts to PHA and will have their assistance terminated.

(iv) The amount earned shall not be a factor in granting this local preference. This local preference shall also be available to a family if the head, spouse, or sole member is 62 or older, or is receiving social security disability, or SSI disability benefits, or any other payments based on the individual's inability to work.

(b) A family can verify participation in a job-training program or graduation from such a program. This includes programs of job training, skills training or education

accepted or mandated by the Temporary Assistance to Needy Families program. The family must notify PHA if it enters such a program while on the waiting list and provide documentation of participation to PHA. PHA will not grant this preference if the family fails to provide notice. Notice and verification of the preference claim must be received prior to the offer of housing. To claim this preference applicants must be in good standing with respect to attendance and program rules.

**53. Utility Reimbursement:** Funds that are reimbursed to the resident or, with the resident's permission, the utility company on the resident's behalf if the utility allowance exceeds the Total Tenant Payment. Tenants who choose to pay flat rents do not receive a utility reimbursement, since the value of the flat rent takes into account any utilities paid by the tenant.

**54. Very Low-Income Family:** Very low-income family means a family whose Annual Income does not exceed 50 percent of the median Annual Income for the area, with adjustments for smaller and larger families, as determined by the Secretary of Housing and Urban Development.

**55. Violent Criminal Activity:** Any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause serious bodily injury or property damage.