



# **Allentown Housing Authority**

## Neighborhood Strategy Area Tenant Selection Plan

Updated as of:  
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# ALLENTOWN HOUSING AUTHORITY

## NEIGHBORHOOD STRATEGY AREA

### Tenant Selection Plan - Table of Contents

<b>1. INTRODUCTION, PROGRAM APPROACH AND OBJECTIVES .....</b>	<b>4</b>
A. Purpose of the Tenant Selection Plan and AHA's Admissions and Occupancy Policy .....	4
B. Overall Program Objectives.....	4
C. Marketing and Outreach.....	4
D. Procedures for Notifying Applicants and Tenants of Changes.....	5
E. Equal Opportunity Requirements .....	5
F. Prohibited Actions .....	6
G. Reasonable Accommodations and Special Needs Procedures .....	6
<b>2. PROJECT ELIGIBILITY REQUIREMENTS .....</b>	<b>7</b>
A. Project Specific Requirements .....	10
B. Citizenship / Immigration Status Requirements.....	10
C. Social Security Number Requirements.....	12
<b>3. INCOME LIMITS .....</b>	<b>13</b>
A. Extremely Low-Income Families .....	13
B. Very Low-Income Families .....	14
<b>4. PROCEDURES FOR ACCEPTING APPLICATIONS, PROCESSING APPLICATIONS AND SELECTING FROM THE WAITING LIST .....</b>	<b>15</b>
A. Requirements to Apply .....	15
B. Procedures for Accepting Applications .....	15
C. Procedures for Applying Preferences.....	16
D. Notification of Eligibility .....	18
E. Applicant Screening Criteria .....	18
F. Tenant Selection Process .....	23
G. Income Targeting.....	23
H. Requirement to Attend Scheduled Application Interview Meeting.....	23
I. Procedures for Rejecting Ineligible Applicants .....	24
<b>5. THE VERIFICATION PROCESS .....</b>	<b>26</b>
A. Items Requiring Verification .....	26
B. AHA's Verification Policy .....	26
C. Income, Assets and Income Exclusions .....	28
D. Total Tenant Payment and Minimum Rent .....	30
E. Zero Income.....	31
F. Excess Utility Charges .....	32
<b>6. OCCUPANCY STANDARDS .....</b>	<b>32</b>
A. Unit Size and Occupancy Standards.....	32
B. Factors for Determining and Assigning Unit Sizes.....	32
<b>7. UNIT TRANSFER POLICIES .....</b>	<b>33</b>
A. Assigning Accessible Units .....	34
<b>8. POLICIES TO COMPLY WITH SECTION 504, THE FAIR HOUSING ACT AND CIVIL RIGHTS ACT .....</b>	<b>34</b>
<b>9. WAITING LIST MANAGEMENT .....</b>	<b>35</b>
A. Waiting List Content .....	35
B. Procedures for Opening and Closing the Waiting List.....	36
C. Waiting List Updates .....	36

D.	Method of Applicant Assignment and Selection from Waitlist .....	37
E.	Removal of Applicants from the Waiting List .....	37
<b>10.</b>	<b>ELIGIBILITY OF STUDENTS .....</b>	<b>38</b>
A.	Definition of Student .....	38
B.	Clarification of HUD Definition of Independent Student .....	38
C.	Vulnerable Youth Population .....	38
<b>11.</b>	<b>VIOLENCE AGAINST WOMEN ACT (VAWA) PROTECTIONS .....</b>	<b>39</b>
A.	VAWA History .....	39
B.	VAWA Rules and Regulations .....	39
C.	Delivery of VAWA Certification Form .....	40
D.	Confidentiality of Information .....	41
<b>12.</b>	<b>LEASING OF DWELLING UNITS .....</b>	<b>41</b>
A.	The Leasing Process .....	41
B.	Charges in Addition to Rent .....	42
C.	Termination Procedures .....	43
<b>13.</b>	<b>SECURITY DEPOSIT REQUIREMENTS .....</b>	<b>44</b>
A.	General Security Deposit Information .....	44
B.	Amount of Security Deposits .....	44
C.	Security Deposit Use .....	44
D.	Security Deposits for Tenants Transferring to Another Unit .....	45
<b>14.</b>	<b>UNIT INSPECTIONS .....</b>	<b>45</b>
A.	Pre-Occupancy Inspections (Move-in) .....	45
B.	Annual Inspections .....	45
C.	Termination Inspection (Move-out) .....	45
<b>15.</b>	<b>ANNUAL RECERTIFICATION REQUIREMENTS .....</b>	<b>46</b>
A.	Annual Reexaminations .....	46
B.	Reporting Requirements .....	46
C.	Annual Recertification Reporting Exceptions .....	46
D.	Zero Income Households .....	46
E.	Absent Family / Family Member .....	47
F.	Annual Recertification Process .....	47
G.	Family Obligation to Recertify .....	48
H.	Annual Recertification Reminder Notices .....	49
I.	Completion of the Annual Reexamination .....	49
J.	Action Following Re-Examination .....	49
<b>16.</b>	<b>INTERIM RECERTIFICATION REPORTING REQUIREMENTS .....</b>	<b>50</b>
A.	Rent Decreases and Adjustments .....	50
B.	Immediate Reporting Requirement .....	50
C.	Special Family Circumstances .....	51
D.	Incorrect Reporting .....	51
E.	Effective Dates of Rent Adjustments .....	51
<b>17.</b>	<b>IMPLEMENTATION OF HOUSE RULE CHANGES .....</b>	<b>52</b>
<b>18.</b>	<b>HUD'S ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM .....</b>	<b>52</b>
A.	Overview and Use of HUD's EIV System .....	52
B.	Screening of Personal Identifiers .....	52
C.	EIV Reports .....	53
<b>20.</b>	<b>TENANT REPAYMENT AGREEMENTS .....</b>	<b>58</b>
A.	Unreported or Misreported Income .....	58
B.	Other Amounts Owed to AHA .....	58
C.	Repayment Agreement Policy .....	58
D.	De minimis Errors .....	59
E.	Prosecution for Fraud .....	59

<b>APPENDIX A: MANDATORY AND DISCRETIONARY USE OF EIV .....</b>	<b>60</b>
<b>APPENDIX B: INCOME EXCLUSIONS .....</b>	<b>62</b>
<b>APPENDIX C: ASSET EXCLUSIONS.....</b>	<b>64</b>

## 1. INTRODUCTION, PROGRAM APPROACH AND OBJECTIVES

### A. Purpose of the Tenant Selection Plan and AHA's Admissions and Occupancy Policy

In accordance with HUD Rules and Regulations, the Allentown Housing Authority ("AHA") must develop, and make public, written Tenant Selection Plans (TSP), policies and procedures that include descriptions of the eligibility requirements and income limits used for admission to the AHA's Section 8 New Construction Neighborhood Strategy Area (NSA) Program. The contents of the Tenant Selection Plan (TSP) must also be consistent with the purpose of improving housing opportunities and be reasonably related to program eligibility, property eligibility and an applicant family's ability to perform the obligations of the lease.

This Section 8 New Construction NSA Tenant Selection Plan (TSP), and admission and continued occupancy policies and procedures establishes the AHA's discretionary policies and procedures that will be used in the administration of the Section 8 New Construction NSA Program for Neighborhood Strategy Area (NSA) in accordance with U.S. Department of Housing and Urban Development ("HUD") requirements. The approach to program functions contained in this Plan are applicable to admission and continued occupancy in the Section 8 New Construction NSA program.

This TSP complies with the provisions found in applicable sections of the Code of Federal Regulations, HUD Notices and Handbooks and publications. Additional requirements can be found in the AHA Public Housing Agency Plan. If any provisions and/or amendments to HUD's rules, regulations or guidelines conflict with this Policy, such rules, regulations or guidelines will supersede.

### B. Overall Program Objectives

The overall objectives for the AHA's Section 8 New Construction NSA program are intended to achieve the following:

- Provide decent, safe and sanitary housing at affordable cost to very low and extremely low-income families; and
- Assure compliance with the HUD regulations, Equal Housing Opportunity requirements and AHA's policies.

### C. Marketing and Outreach

The AHA will conduct affirmative fair housing marketing and outreach methods in an effort to obtain and maintain a well-balanced application pool and to identify and attract those applicants who are determined to be least likely to apply for housing. Outreach efforts will take into consideration the level of vacancy in the Authority's units, unit availability through turnover, and waiting list characteristics. The AHA will periodically assess these factors in order to determine the need and scope of their outreach and marketing efforts.

The AHA will continue to publicize and disseminate information concerning the availability of housing assistance for very low-income families. However, when the waiting list indicates a need for additional

families, the AHA will make known, through publication in newspapers of general circulation, minority media, and all other suitable means, the availability of housing assistance for very-low-income families, unless application taking has been suspended according to HUD regulations.

Marketing efforts will be designed to attract applicants from appropriate segments of the Very-low Income (50% of Area Median Income or "AMI"), and Extremely Low-Income (30% of Area Median Income or "AMI") populations. The Authority will conduct all marketing and outreach methods in accordance with their approved Affirmative Fair Housing Marketing Plan ("AFHMP") and use its marketing program to achieve a representative income mix of lower-income families among those on the waiting list and thereby attain a broad range of incomes in its developments as required by federal law.

#### D. Procedures for Notifying Applicants and Tenants of Changes

Schedules of special charges for services, repairs, and rules and regulations which are required to be incorporated in the lease by reference shall be publicly posted in a conspicuous manner in the AHA office and shall be furnished to applicants and tenants upon request. Such schedules, rules and regulations may be modified from time to time, provided that at least thirty days' advance written notice is given to each affected tenant setting forth the proposed modification, the reasons therefore, and providing the tenant an opportunity to present written comments which shall be taken into consideration prior to the proposed modifications becoming effective. A copy of such notice shall be:

1. Delivered directly or sent by email or first-class mail to each tenant; or
2. Posted in at least three conspicuous places within each community in which the affected dwelling units are located, as well as in a conspicuous place at the community office, if any, or if none, a similar central business location within the community.

In addition to changes referenced above, the AHA will also review the Section 8 New Construction NSA TSP at least annually to ensure the TSP reflects current AHA operating practices and/or HUD program requirements. If AHA determines that changes are needed to the TSP, the TSP will be updated accordingly based on current AHA operating practices and/or HUD program requirements. The updated TSP will include the dates of the last revision. Applicant families who were placed on the Section 8 New Construction NSA waiting list prior to the effective date of the revised TSP will be notified in writing of changes made to the TSP. Such applicant families will not lose their place on the Section 8 New Construction NSA waiting list as a result of changes made to the TSP, or any subsequent revisions, and all applicant families will be given an opportunity to view the most current version of the TSP which is posted at AHA Management office.

#### E. Equal Opportunity Requirements

The AHA complies with all applicable federal, state and local nondiscrimination and equal opportunity laws including the Fair Housing Act; Title VI of the Civil Rights Act of 1964; the Age Discrimination Act of 1975; Executive Order 11063; Section 504 of the Rehabilitation Act of 1973; and Title II of the Americans with Disabilities Act.

The Section 8 New Construction NSA program requires compliance with all Equal Opportunity requirements imposed by contract or federal law, including the authorities cited at 24 CFR 5.105(a) and Title II of the Americans with Disabilities Act, 42 U.S.C. 12101, et. seq.

The AHA's administrative office is accessible to persons with physical disabilities. The main telephone number of the AHA is (610) 439-8678. Hearing impaired individuals may contact the Authority at the TTD/TDY telephone number of (610) 439-1586.

If at any time a family is uncooperative with the AHA's efforts with respect to reasonable accommodation, the AHA will take action in accordance with the regular operating policies and procedures of the AHA including those contained within this Plan

#### F. Prohibited Actions

Under the Fair Housing Act, the AHA, owners or other housing providers must not take any of the actions listed below based on race, color, religion or creed, sex, age, physical or mental disability, familial status, national origin, sexual orientation or gender identity:

1. Deny anyone the opportunity to apply for rental housing, or deny any otherwise qualified applicant the opportunity to lease rental housing suitable to his or her needs;
2. Provide anyone housing that is different from that provided to others;
3. Subject anyone to segregation, even if by floor or wing;
4. Restrict anyone's access to any benefit enjoyed by others in connection with the housing program;
5. Treat anyone differently in determining eligibility or other requirements for admission, in use of the housing amenities, facilities or programs, or in the terms and conditions of a lease. See paragraph 1-G for a discussion of the owner's obligation to provide reasonable accommodations to persons with disabilities; or
6. Deny anyone access to the same level of services.

**NOTE:** The AHA will be certain that all services at the project are supplied in a nondiscriminatory fashion. For example, there cannot be a preference for providing a service to persons of a specific religion, even if the agency providing the service is a faith-based organization.

1. Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program;
2. Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons;
3. Discriminate in the provision of brokerage services or in residential real estate transactions;
4. Discriminate against someone because of that person's relation to or association with another individual; or
5. Retaliate against, threaten, or act in any manner to intimidate someone because he or she has exercised rights under the Fair Housing Act.

#### G. Reasonable Accommodations and Special Needs Procedures

The AHA will make every effort to reasonably accommodate persons with documented special needs as mandated by the Americans with Disabilities Act, 42 U. S. C. 12101 et seq. These efforts will be made for all persons with which the AHA conducts business including both applicants and tenants.

Additional actions which may be taken by AHA include:

1. Additional telephone calls to accommodate the special needs.

2. The use of a TTD/TDY telephone number.
3. Scheduling additional appointments. (Should a second appointment be scheduled with consent of the family and it is not attended by the family or an adult representative without cancellation, the AHA shall consider such action as a missed appointment, subject to the requirements of applicant or tenant appointments stated in this Plan.)
4. Contacting a family member, case worker or other person who assists the family.
5. Any other necessary means which will reasonably accommodate the individual.

*\*Documented Special Need* - a signed statement from a qualified professional or social service agency deemed acceptable to the AHA indicating a special need.

## 2. PROJECT ELIGIBILITY REQUIREMENTS

To be eligible for admission for participation, an applicant family must meet the criteria for eligibility determination as established by HUD, as well as any additional criteria established by AHA.

The applicant family's eligibility for placement on the waiting list will be based on the following factors and will not be verified until selection from the waiting list is made.

1. Meet the AHA and HUD definition of a family. A family includes, but is not limited to, regardless of marital status, actual or perceived sexual orientation, or gender identity, the following:
  - a) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person;
    - Is an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age;
    - Has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)); and
    - Is homeless or is at risk of becoming homeless at age 16 or older.
  - b) A group of persons residing together, and such group includes, but is not limited to:
    - A family with or without children. A child temporarily absent from the home due to placement in foster care must be considered in determining family composition and size. A family that consists of a pregnant woman only, and no other persons, must be treated as a two-person family.
    - An elderly family, which is defined as a family whose head, co-head, spouse, or sole member is at least 62 years of age. It may include two or more persons, each of whom are at least 62, living together; or one or more persons who are at least 62 living with one or more live-in aides.
    - A near-elderly family, which is defined as a family whose head, co-head, spouse, or sole member is at least 50 years of age but below the age of 62; or two or more persons, each of whom are between the ages of 50 and 62, living together; or one or more persons who



are between the ages of 50 and 62 living with one or more live-in aides.

- A disabled family, which means a family whose head, co-head, spouse, or sole member, is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.
    - A “person with disabilities” means a person who:
      - Has a disability as defined in 42 U.S.C. § 423(d)(1);
      - Has a physical, mental or emotional impairment that is expected to be of long-continued and indefinite duration, substantially impedes his or her ability to live independently, and is of such a nature that ability to live independently could be improved by more suitable housing conditions; or
      - Has a developmental disability as defined in 42 U.S.C. § 15002(8) (formerly codified in 42 U.S.C. § 6001).
    - Important considerations:
      - The meaning of “a person with disabilities” does not exclude persons who have the disease of acquired immunodeficiency syndrome (AIDS) or any conditions arising from the virus that causes AIDS.
      - The meaning of “a person with disabilities” does not include a person whose disability is based solely on a dependency to any drug or alcohol (for eligibility purposes).
      - A person who qualifies as a “person with disabilities” also qualifies as an individual with disabilities for purposes of protections under Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and the Fair Housing Act, including reasonable accommodation and program accessibility for persons with disabilities
  - A displaced family, which is a family in which each member or the sole member is a person displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized under Federal disaster relief laws.
  - A remaining member of a tenant family, which is a family member of an assisted tenant family who remains in the unit when other members of the family have left the unit.
2. Whose gross annual income, at the time of admission, does not exceed the applicable income limits for occupancy as established by HUD annually and posted separately in the AHA's offices; and;
  3. Whose total assets, at the time of admission, does not exceed the annual threshold income limits as established by HUD
  4. Who does not have a present ownership interest in, a legal right to reside in, and the effective legal authority to sell, based on State or local laws of the jurisdiction where the property is

located, real property that is suitable for occupancy by the family as a residence, except this real property restriction does not apply to:

- Any property for which the family is receiving assistance under 24 CFR 982.620; or under the Homeownership Option in 24 CFR part 982;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking, as defined in this part 5 (subpart L); or
- Any family that is offering such property for sale.
- A property will be considered “suitable for occupancy” under paragraph (a)(1)(ii) of this section unless the family demonstrates that it:
  - does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
  - Is not sufficient for the size of the family;
  - Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner);
  - Is not safe to reside in because of the physical condition of the property (property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
  - Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

5. Who meet or exceed the AHA’s screening and Tenant Selection Criteria.

In addition to family members, a live-in aide may be considered to be part of the household for the necessary care and well-being of one or more elderly or near-elderly persons or persons with disabilities in accordance with 24 CFR 966.4. At any time, the AHA will refuse to approve a person as a live-in aide, or withdraw such approval as a live-in aide if:

1. The person does not pass screening at initial occupancy for drug abuse and other criminal activity, including State lifetime registration as a sex offender, by applying the same criteria established for screening other applicants.
2. The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
3. The person commits drug-related criminal activity or violent criminal activity;
4. Adequate sleeping space, as defined by the Occupancy Standards listed in Section 6 of this Plan, (two persons per bedroom) is not available for the live-in aide.

AHA will require that the live-in aide sign a certification as to his/her intent in providing necessary supportive services and/or care for the family member(s). AHA will require that the live-in aide sign a live-in aide lease addendum establishing that the live-in aide is not eligible to remain in the unit once

the tenant is no longer living in the unit, regardless of the circumstances for the tenant's departure. If the live-in aide has his/her approval withdrawn, he/she is no longer eligible to remain in the assisted unit and will be considered to be an ineligible member of the household. If the ineligible member remains in the unit after the AHA provides notice of the ineligibility, the AHA will begin eviction procedures.

#### A. Project Specific Requirements

Units available for lease under the HUD Section 8 New Construction NSA program may be occupied by eligible applicant families and senior citizens. AHA reserves the right to restrict occupancy only to eligible applicant families and senior citizens based on household characteristics and screening criteria set forth in this plan.

Under no circumstance may any eligible applicant family or assisted household benefit from more than one (1) type of subsidy or rental assistance, and the assisted unit being occupied must be the family's only residence. This rule is meant to ensure that HUD pays rental assistance on only one unit for a family and provides rental assistance to as many eligible families as possible with available funding.

This prohibition does not prevent a family or person who is currently receiving rental assistance from applying for an assisted unit in another property, however, the assisted tenancy in the unit being vacated must end the day before the subsidy begins in the new unit.

#### B. Citizenship / Immigration Status Requirements

Applicant families must be U.S. citizens or have eligible non-citizenship/immigration status. Evidence of citizenship, or eligible non-citizenship / immigration status must be submitted by the applicant family at the time of application. Non-citizens (except those 62 years of age and older) must sign a verification consent form and submit verification of their immigration status and sign a Citizenship Declaration form that they do not claim to have eligible immigration status.

If the Declaration of Citizenship/eligible non-citizenship immigration status indicates that verification of eligible immigration status must be completed, the AHA will request this information directly from the Department of Homeland Security (DHS). This information verification will be requested first through the Systematic Alien Verification for Entitlement "SAVE" system procedure, then secondary verification will be performed if "SAVE" verification results does not verify eligible immigration status. The SAVE system provides verification of the Alien Registration number, Verification number, first name, last name and immigration status of the applicant household member.

In the event, secondary verification returns a negative result, the AHA will notify the applicant family in writing as soon as possible and the applicant family has thirty-days from receipt of the notice for which to respond. The applicant family may appeal the AHA's decision directly to the DHS. The applicant family must also send a copy of the appeal directly to the AHA along with proof of mailing. The DHS should respond to the appeal within 30 days. If the DHS decision results in a positive determination of eligibility, the AHA can provide the applicant family with housing assistance. If the DHS decision results in a negative determination of eligibility, the applicant family has 30 days to request a hearing with the AHA. This verification is generally only to be done prior to admission unless a new member joins the family after move-in, or unless the immigration status is subject to change in the future.

#### Mixed Family

A mixed family is a family with one or more ineligible family members and one or more eligible family

members. Mixed families may receive prorated rental assistance based on verification of eligible family member status. Immigration eligibility status and citizenship status of mixed families are to be verified prior to occupancy, however, if the status of a family member in a mixed family changes from ineligible to eligible, the family may request an interim recertification.

If it is determined that a family has an ineligible family member, assistance will be offered on a pro-rata basis in accordance with HUD Handbook 4350.3 REV-1. Failure to accept pro-rated assistance will result in denial of assistance and the family will be removed from the Section 8 New Construction NSA waiting list. The verification of citizenship status will generally occur only once for each member of the household at admission unless it is determined that the citizenship status may change at some point in the future.

Applicant families must submit required citizenship/eligible immigration status documentation no later than the date AHA initiates verification of other eligibility factors. If an applicant family cannot supply the documentation within the specified timeframe, the AHA may grant the applicant family an extension of not more than 30 days, but only if the applicant family certifies that the documentation is temporarily unavailable and additional time is needed to collect and submit the required documentation. Although the extension period may not exceed 30 days, the AHA may establish a shorter extension period based on the circumstances of the individual case.

The AHA will inform the applicant family in writing if an extension request is granted or denied. If the request is granted, the AHA will include the new deadline for submitting the documentation. If the request is denied, the AHA will state the reasons for the denial in the written response. When granting or rejecting extensions, the AHA will treat applicant families consistently.

The AHA may not delay the applicant family's assistance if the applicant family submitted its immigration documentation in a timely manner but the DHS SAVE verification or appeals process has not been completed.

If a unit is available, and the applicant family has come to the top of the Section 8 New Construction NSA waiting list, and at least one member of the applicant family has been determined to be eligible, the AHA will offer the family the unit. The AHA must provide assistance to the applicant family member determined to be eligible and to those family members that submitted their immigration documents on time. If any family members did not provide the required immigration documentation, then the assistance for the family will be prorated. The AHA will continue to provide assistance to those applicant family members who submitted their immigration documentation in a timely manner until their immigration status has been verified.

#### **Acceptable forms of DHS Documents**

- Form 1-94, *Arrival-Departure Record* annotated with one of the following:
  - “Admitted as a Refugee Pursuant to Section 207”; “Section 208” or “Asylum”;
  - “Section 243(h)” or “Deportation stayed by Attorney General”; or “Paroled Pursuant to Section 212(d)(5) of the INA.”
- Form I-94, *Arrival-Departure Record* (with no annotation) accompanied by one of the following: A final court decision granting asylum (but only if no appeal is taken); A letter from an DHS asylum officer granting asylum (if application was filed on or after October 1, 1990) or from an DHS district director granting asylum (application filed before October 1, 1990); A court

decision granting withholding of deportation; or A letter from an asylum officer granting withholding of deportation (if application was filed on or after October 1, 1990).

- A receipt issued by the DHS indicating that an application for issuance of a replacement document in one of the above-listed categories has been made and that the applicant's entitlement to the document has been verified.

Other acceptable evidence. If other documents are determined by the DHS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*.

### C. Social Security Number Requirements

Applicant families applying for assistance under the HUD Section 8 New Construction NSA program are required to disclose and provide verification of social security numbers for all household members as part of the application process, and prior to taking occupancy of a unit.

The social security number requirement does not apply to:

1. Individuals who do not contend eligible immigration status;
2. Individuals age 62 or older as of January 31, 2010, whose initial determination of eligibility was begun prior to January 31, 2010

If a child under the age of 6 years was added to the applicant family household within the 6-month period prior to the applicant family household's date of admission, the applicant family may become a participant, so long as proper documentation of the social security number is provided to the AHA within 90 calendar days from the date of admission into the program. The AHA will grant an extension of one additional 90-day period to the applicant family if the AHA determines that, in its discretion, the applicant family's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside the control of the applicant family or applicant family member. If the applicant family or applicant family member fails to produce the social security number documentation within the required time-period, the AHA will deny assistance.

Except as noted above, if all non-exempt household members have not disclosed and/or provided required verification of Social Security Numbers (see *Acceptable Social Security Verification Documents*) at the time a unit becomes available, the applicant family may retain their place on the waiting list and the next eligible applicant family on the waiting list will be offered the available unit.

The applicant family who has not disclosed and provided the required Social Security Number verification for all non-exempt household members has 90 days from the date they are first offered an available unit to disclose/verify the Social Security Number(s) for all household members. During this 90-day period, the applicant family may retain its place on the waiting list. However, if after 90 days, if the applicant family is unable to disclose/provide verification of the Social Security Numbers of all non-exempt household members, the applicant family will be determined ineligible and removed from the waiting list.

If an occupant or any member of an occupant's household has been assigned a new social security number, the occupant or occupant member must submit proper documentation of the new social security number to the AHA at either the time of receipt of the new social security number, at the next interim recertification or regularly scheduled annual recertification of family composition or income, or at such earlier time specified by the AHA.

#### Acceptable Social Security Verification Documents

In lieu of Social Security cards, the following items displaying Social Security numbers may also be considered acceptable verifications:

- Original document issued by a federal or state government agency which contains the name, Social Security Number, and other identifying information of the individual
- Driver's license with Social Security Number
- Identification card issued by a medical insurance provider, or by an employer or trade union.
- Earnings statements on payroll stubs
- Bank statement
- Form 1099
- Social Security Administration benefit award letter
- Retirement benefit letter
- Life insurance policy
- Court records

While the AHA must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the AHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the AHA must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the AHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

### 3. INCOME LIMITS

Applicant families must qualify for admission to the AHA Section 8 New Construction NSA program based upon total gross annual income for all members of the household family. Income eligibility is determined using the following income categories:

#### A. Extremely Low-Income Families

Families whose gross annual income(s), at the time of admission does not exceed 30% of the Area Median Income (AMI) or Extremely Low-Income (ELI) limits established by HUD each year. In addition, and in accordance with HUD Regulations, at least forty percent (40%) of all new admissions to the Section

8 New Construction NSA program property each year will be from this income category as required by HUD's income targeting requirements.

B. Very Low-Income Families

Families whose gross annual income(s), at the time of admission, does not exceed 50% of the Area Median Income (AMI) or Very Low-Income (VLI) limits established by HUD each year but whose income(s) are greater than 30% AMI or the Extremely-Low-Income limits established by HUD each year.

AHA will process applications for otherwise eligible applicant families based on the Extremely Low-Income (ELI) and Very-Low Income (VLI) categories listed above. Applicant families whose gross annual income exceeds the Very-low Income category or fifty percent (50%) of the project's Area Median

Income (AMI) will be issued a denial notice for being over income for the Section 8 New Construction NSA program.

Applicants who are issued a denial notice will be provided an opportunity to appeal AHA's denial decision and may submit a hearing request in accordance with AHA's policies and procedures.

#### 4. PROCEDURES FOR ACCEPTING APPLICATIONS, PROCESSING APPLICATIONS AND SELECTING FROM THE WAITING LIST

##### A. Requirements to Apply

To participate in the Section 8 New Construction NSA program, applicant families must submit a fully completed, signed and executed application online to the AHA by using the online application portal prescribed by the AHA. Applicant families must access the online application portal located at <https://apply.allentownhousing.org/>. The online application portal is available 24 hours a day and may be accessed from any computer that has internet access. If assistance is needed, any prospective applicant family can call the AHA office during normal working hours of Monday through Friday from 8:30am – 4:30PM with any questions they have or to request assistance in accessing the online application or to request assistance or a reasonable accommodation with submitting the online application to AHA.

The application packet will consist of the following required forms:

- a. Rental application;
- b. Information regarding AHA operations,
- c. Program information handout,
- d. Release of Information/Privacy Statement (form HUD9887/9887-A);
- e. Asset Checklist,
- f. Declaration of Citizenship Status form,
- g. HUD 92006 Supplement to Application for Federally Assisted Housing.

##### B. Procedures for Accepting Applications

All applicant families who are interested in applying for any of the AHA's Section 8 New Construction NSA Program must complete and submit a rental application when the Section 8 New Construction NSA program waiting list is open. The AHA maintains site- based waiting lists for its Section 8 New Construction/Neighborhood Strategy Area developments. The AHA accepts rental applications for the Section 8 New Construction NSA program online at <https://apply.allentownhousing.org/> and applicant families or individuals requiring assistance or special accommodations in order to complete or submit an application online may call or visit the AHA office during normal business hours of Monday-Friday, 8:30am to 4:30pm and AHA staff will assist them in completing the rental application.

Applicant families will be required to provide the following information in order to complete the application:

- a. Gross annual Income for all household members



- b. Asset Information for all household members
- c. Family Composition
- d. Medical Expenses
- e. Social Security Number verification for all household members prior to occupancy in accordance with 74 CFR 68932 (Social Security Number verification does not apply to individuals meeting an exception to the requirement as described under “C. Social Security Number Requirements” above.)
- f. Verification of citizenship status and/or eligible non-citizenship status for all household members
- g. Verification of disability status (if applicable)
- h. Other information the AHA may require to determine program or project eligibility

Applicant families who submit applications or related documents that are found to be incomplete and/or unsigned will be denied and considered to be ineligible for placement on the waiting list.

Applicant families must inform the AHA of any changes to information listed on the application as soon as they occur (e.g., address, income, family composition, or preferences). Failure to notify the AHA of such changes may result in the applicant's removal from the waiting list.

Any applicant family who has failed to pay an outstanding balance consisting of uncollected rent and/or miscellaneous charges owed to the AHA or any other federally funded housing program will be issued an application, however, upon verification of the outstanding debt by the AHA, the application will be rejected, and the applicant family will not be placed on the waiting list. Once submitted, applications received will be placed on the waiting list in chronological order by date and time received.

### C. Procedures for Applying Preferences

Elderly Families (including persons with disabilities), Near-Elderly Disabled Families, and Other Disabled Families shall be given a preference for selection over eligible Displaced Persons within the Federal Income Targeting Eligible and Ineligible categories. Preferences will be assigned and prioritized as follows:

Eligible applicant families who qualify for a local preference are entitled to be placed on the Section 8 New Construction NSA waiting list and receive a preference in selection of Housing. Applicant families who qualify as local preference holders, as defined in this section, will be admitted prior to applicant families who do not have a local preference within either the Federal Income Targeting Eligible or Federal Income Targeting Ineligible categories of the Section 8 New Construction NSA waiting list.

The AHA will place applicant families on the waiting list as either Federal Income Targeting Eligible or Federal Income Targeting Ineligible, by time and date of application, and by any Local Preference as described below:

#### Victims of Domestic Abuse: (2 points)

*Any applicant who is a victim of domestic abuse.* Such applicant families will receive a preference for public housing upon providing the following information:

1. A copy of a police report indicating an act of domestic violence has occurred against the applicant in the six months prior to applying for housing, or
2. A copy of a hospital report indicating an act of domestic violence has occurred against the applicant in the six months prior to applying for housing, and
3. The applicant family is an active client of the Battered Women's Shelter of Allentown, PA

### Residency Preference: (1 point)

*Any applicant family who qualifies as a resident of the City of Allentown.* A resident is defined as a family or single person who lives in or previously resided in the City of Allentown, or whose head of household or spouse works in, or has been given a bona fide offer of employment in Allentown. Third-party written verification of this preference will be utilized. At the option of the AHA, leases, utility bills, employer records, school records, driver's licenses, voter registration records, property tax records or credit reports also may be used to verify residency.

There is no minimum amount of time that the family must have resided in the City of Allentown to qualify for a residency preference. The use of the residency preference will not have the purpose or effect of delaying or otherwise denying admission to the program based upon the race, color, ethnic origin, gender, religion, disability or age of any member of the applicant's family.

### Change in Preference Status While on The Waiting List

Occasionally, applicant families on the Section 8 New Construction NSA waiting list who do not qualify for a preference at the time of application submission and intake will experience a change in circumstances which may subsequently qualify them for a preference. In such instances, it will be the applicant family's responsibility to update their online application and contact AHA to certify they are eligible for such a preference.

Once the online application is updated and it is determined that the applicant family is eligible for a preference, the applicant family's application will be moved to the top of the Waiting List by date and time of receipt of the original application. The applicant family will then be informed in writing by AHA, as to how the change in status has affected their place on the Waiting List. The applicant family will then be required to recertify their claim for a preference at the time they are offered a unit.

### Preference Denial

A preference does not guarantee admission to Section 8 New Construction NSA program. The applicant family must meet all AHA tenant screening criteria before being selected as a tenant and offered a unit.

If the applicant's preference cannot be verified, the applicant will be notified of the preference denial and given the opportunity for an informal hearing.

The AHA will not give a preference to an applicant if any member of the family is a person who was evicted during the past three (3) years, because of drug-related activity, violent criminal activity or alcohol abuse from housing assisted under a 1937 Housing Act program.

NOTE: In no event, may any single person be provided a housing unit assisted under this Act of two bedrooms or more unless the need is required for based on a verified reasonable accommodation.



#### D. Notification of Eligibility

Upon the AHA's receipt of the initial application and the information contained therein, the applicant family will be sent one of the following within thirty (30) calendar days:

1. Applicant families for whom AHA has verified initial eligibility will be sent written correspondence indicating "You appear to qualify for housing and have been placed on the waiting list."
2. Applicant families who do not appear to be ineligible will be sent a written correspondence indicating "You do not appear to meet the eligibility criteria for admission at this time". Such applicants will be given fourteen (14) days to respond in writing to AHA's preliminary determination and request an Informal Hearing to discuss the denial/rejection of their application. The Informal Hearing will be conducted in accordance with HUD Handbook 4350.3 REV-1 as follows:
  - A. Any meeting with the applicant family to discuss the applicant family's rejection must be conducted by a member of the AHA's staff who was not involved in the initial decision to deny admission or assistance.
  - B. Within 5 business days of the AHA response or meeting, AHA will advise the applicant family in writing of the final decision on eligibility.

In the event the applicant family is determined to be ineligible due to non-citizenship status, the AHA will notify the applicant family in writing of their ineligibility. The letter will inform the applicant family of their right to a Department of Homeland Security appeal and/or PHA hearing. For more information regarding rejecting ineligible applicants due to immigration status please see Section 4-I.

#### E. Applicant Screening Criteria

##### The Screening Process

Information to be considered by AHA in completing applicant screening shall be reasonably related to assessing the conduct of the applicant family, other family members or live-in aide(s) listed on the application, in present or prior housing. The history of applicant family conduct must demonstrate that the applicant family is not likely to:

1. Interfere with other tenants in such a manner as to diminish their enjoyment of the premises by adversely affecting their health, safety or welfare; or
2. Adversely affect the physical environment or the financial stability of the project.

##### Criteria for Denying Assistance or Terminating Tenancy

All applicant family members and participants of the Section 8 New Construction NSA program must meet other specific eligibility criteria. The AHA will deny program assistance to an applicant family or terminate tenancy of an existing tenant or program participant if:

1. Any member of the family has been evicted from Federally assisted housing because of drug-related criminal activity as defined in 24 CFR 960.205 and 24 CFR 966.4, or if any member of the family has been evicted from public housing for any other reason in the past three years. The three-year period shall begin on the date of such eviction. The AHA will obtain verification from the Public Housing Authority ("PHA") or the owner of federally assisted housing if applicable;
2. Any member of the applicant family is currently engaging in illegal drug use;

3. Any member of the family has ever been convicted as a sex offender and who is subject to the lifetime sex offender registration requirement with federal, state or local law enforcement agencies. The AHA will perform sex offender registry and criminal background checks in all states where the applicant family has resided or are known to have resided using a database that checks against all state registries.
4. Any PHA has terminated program assistance for violating family obligations or program regulations under the lease for any family member in the past three years (other than as provided in paragraph "a" of this section). The AHA will obtain verification from the PHA if applicable;
5. Any member of the family has committed drug-related criminal activity or violent criminal activity within the past three years as defined in 24 CFR 960.205 and 24 CFR 966.4 (other than as provided in paragraph "a" of this section). The AHA obtains Criminal Background Checks on each applicant family. Police reports may also be used for verification;
6. Any family member currently, or in the past three years, has demonstrated a pattern of the abuse of alcohol or a pattern of illegal use of a controlled substance that may interfere with the health, safety, wellbeing or right to peaceful enjoyment of the premises by other residents. If the AHA has reason to believe that a detrimental pattern exists, additional inquiry may be initiated through such resources as police and medical records (if available) to determine if there is a threat to the health, safety, or right to peaceful enjoyment of neighbors;
7. Any family member has ever been convicted of manufacturing or producing methamphetamine in Federally-assisted housing. These individuals will be permanently denied admission to the AHA's Section 8 New Construction NSA program;
8. Any family member has committed any fraud, bribery or other corrupt or criminal act in connection with any federal housing program;
9. The family currently owes rent, debt or other amounts to the AHA or to another PHA in connection with public housing or Section 8 under the 1937 Housing Act;
10. The family has not reimbursed a PHA for amounts paid to an owner under a Housing Assistance Payments ("HAP") contract for rent, damages to the unit, or other amounts owed the family under the lease;
11. The family has breached an agreement with the AHA to pay amounts owed to the AHA, or amounts paid to an owner by the AHA;
12. Any member of the family fails to sign and submit the required consent forms for obtaining information, including form HUD-9887/9887-A;
13. Any family who maintains or acquires net family assets above the threshold amount established annually by HUD.
14. The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell, based on State or local laws of the jurisdiction where the property is located, real property that is suitable for occupancy by the family as a residence.
15. An adult member of the family revokes consent to collect financial information (HUD form 9887 previously permitted).
16. Any member of the family fails to disclose and provide verification of social security numbers (Social Security Number verification does not apply to individuals meeting an exception to the requirement as described under "2. C. Social Security Number Requirements");

17. Any member of the family has ever engaged in or threatened abusive or violent behavior toward any AHA personnel, or any contractor, sub-contractor or agent of the AHA;
18. An applicant family's past performance indicates difficulty in meeting financial obligations, especially with regard to paying rent and utilities. A former AHA tenant (otherwise eligible) who applies while owing a balance for uncollected rent and/or miscellaneous charges will not be considered for housing until all debts are resolved. This standard is also applicable to outstanding balances owed to other federally funded housing programs.

#### Additional Crime-Related Criteria for Termination of Tenancy

In addition to the reasons described in paragraph 2 of this section, the AHA will terminate tenancy and evict the tenant family for any of the following:

1. Drug-related criminal activity engaged in, on or near the premises by any tenant, household member or guest, and any such activity engaged in on the premises by any other person under the tenant's control. The following definitions are applicable to this Plan and are in accordance with 24CFR5.100:
  - Premises: Premises are considered to be the building, complex or development in which the public or assisted housing dwelling unit is located, including the common areas and grounds.
  - Guest: Guest is a person temporarily staying in the dwelling 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.
  - Other person under the tenant's control: a person who, although not staying as a guest in the dwelling unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or member of the household who has express or implied authority to so consent on behalf of the tenant. (Example of other persons under the tenant's control include party attendees, regular visitors, and people who provide commercial service to a household member on a regular and frequent basis, such as an in-home nursing care provider.) 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 (Example of this could be a pizza delivery person).
2. Criminal activity by a tenant, any member of the tenant's household, a guest or other person under the tenant's control:
  - That threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including property management staff) residing on the property.
  - That threatens the health, safety, or right to peaceful enjoyment of their residences of persons residing in the immediate vicinity of the premises.
  - If the tenant is fleeing to avoid prosecution, custody or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees or that, in the case of the State of New Jersey, is a high misdemeanor.
3. If the tenant is violating a condition of probation or parole imposed under Federal or state law.

In the event the AHA receives unfavorable information with respect to the applicant family or any member thereof, consideration shall be given to the time, nature, and extent of the applicant's conduct

and to factors which may indicate a reasonable probability of favorable future conduct or financial prospects (e.g., evidence of rehabilitation).

The AHA will deny assistance to a family based upon drug-related criminal activity, violent criminal activity, or alcohol abuse if the preponderance of evidence indicates that a family member or covered person (as defined in 24 CFR 5.100) has engaged in such activity, regardless of whether the family member or covered person has been arrested or convicted.

The AHA will use the preponderance of evidence definition in Black's Law Dictionary, which is:

*"Evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact sought to be proved is more probable than not."*

AHA will consider the following factors prior to making its denial or termination decision:

- Evidence of the applicant or resident's participation in or willingness to participate in social service or other appropriate counseling service programs.
- The age of the applicant and the circumstances surrounding the unfavorable event or history.
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.
- AHA will require the applicant/resident to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
- Whether the cause of the unfavorable information may be that the applicant/resident is the victim of domestic violence, dating violence, sexual assault or stalking.
- AHA acknowledges that a victim of domestic violence, dating violence, sexual assault or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to a unit, a prior arrest record) that would warrant denial under AHA's policies. Therefore, if AHA decides to deny admission to an applicant family, AHA will include in its notice of denial/termination a statement of the protection against denial provided by VAWA, a description of AHA confidentiality requirements.
- A request that an applicant/resident wishing to claim this protection submit to AHA documentation meeting the specifications below with her or his request for an informal hearing for an applicant and a grievance hearing for a resident.
- The existence of mitigating factors, such as loss of employment or other financial difficulties.
- If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission or termination of assistance, AHA will determine whether the behavior is related to the disability. If so, upon the family's request, AHA will determine whether alternative measures are appropriate as a reasonable accommodation. AHA will only consider accommodations that can reasonably be expected to address the behavior that is the

basis of the proposed denial or termination.

As a condition of receiving or keeping assistance, a family may agree to remove the culpable family member from the application or unit. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the public housing unit. An incarcerated culpable family member may not be an applicant, resident, or guest for five years from incarceration release date. The family must present evidence of the former family member's current address upon AHA request.

#### Enterprise Income Verification (EIV) Existing Tenant Search Report

The AHA must run and use the EIV Existing Tenant Search report as part of the applicant screening process when processing applications for applicant families. The Existing Tenant Search report identifies applicants applying for assisted housing that may be receiving rental assistance at the time of application at another HUD Multifamily Housing or Public and Indian Housing (PIH) location.

The EIV system contains employment and income information only for existing tenants, therefore, the AHA must request third party verification from the income source for determining an applicant's income for eligibility and rent calculation purposes during admission.

When processing applications the AHA must:

1. Use the Existing Tenant Search report at the time they are processing an application to determine if the applicant or any applicant household members are currently being assisted at another Multifamily Housing or PIH location.
2. Discuss with the applicant family if the report identifies that the applicant or a member of the applicant's household is residing at another location, giving the applicant family the opportunity to explain any circumstances relative to his/her being assisted at another location. This may be a case where the applicant wants to move from his/her present location or where two assisted families share custody of a minor child.
3. Follow up with the respective Public Housing Agency (PHA) or owner at the other location to confirm the individual's program participation status before admission at the AHA property, if necessary, depending on the outcome of the discussion with the applicant family. The report gives the AHA the opportunity to coordinate move-out and move-in dates with the PHA or owner of the property at the other location.
4. Retain the Existing Tenant Search report results with the application along with any documentation obtained as a result of contacts with the applicant and the PHA and/or owner at the other location.
5. Chapter 18 of this plan provides a full description of the EIV system requirements and AHA's required use of the HUD EIV system.

#### Eligibility Exceptions

The AHA will not deny admission to the Section 8 New Construction NSA program for an applicant family member's drug-related criminal activity if the applicant family member can demonstrate that he/she:

1. Has an addiction to a controlled substance, has a record of such impairment, or is regarded as having such an impairment; **AND**
2. Has recovered from such addiction, does not currently use or possess controlled substances and:
  - Has successfully completed a supervised drug or alcohol rehabilitation program;



- Has otherwise been rehabilitated successfully; or
- Is participating in a supervised drug or alcohol rehabilitation program.

The AHA will not deny the admission to the Section 8 New Construction NSA program for a family member's drug-related criminal activity, violent criminal activity or alcohol abuse if the family member involved in such activity or abuse no longer resides in the household because he/she is incarcerated.

#### F. Tenant Selection Process

Applicant families will be contacted by the AHA once they reach the top of the waiting list, and the applicant family will be required to attend an applicant interview meeting. All information on the application will be verified and the applicant family will be offered the opportunity to provide updated information on the application. This applicant interview meeting will be scheduled once the applicant family reaches the top of the waiting lists and AHA estimates that an applicant can be housed within 60 days. An applicant family will not be selected for admission until verification of all required information including preferences and Citizenship status has been received by AHA.

#### G. Income Targeting

To assure compliance with §513 of the Quality Housing and Work Responsibilities Act (QHWRA) of 1998, applicant families will be selected from the Section 8 New Construction NSA waiting list based upon Income Targeting requirements as defined in this Plan and in accordance with the following:

1. The AHA will admit only Extremely Low-Income (ELI) families until the required 40% minimum target is met. In chronological order, the AHA will select eligible applicants from the waiting list whose incomes are at or below the Extremely Low-Income limit (ELI) to fill the first 40% of expected vacancies in the property. Once this target has been achieved, the AHA will admit applicants from the waiting list in chronological order.
2. The AHA will monitor admissions at least every six (6) months to determine compliance with HUD's 40% Income Targeting requirement.

The AHA will admit families to the Section 8 New Construction NSA program to comply with the Income Targeting requirement, and may adjust the waiting list selection to do so.

#### H. Requirement to Attend Scheduled Application Interview Meeting

The AHA will notify applicant families in writing as they approach the top of the waiting list informing them that a unit may soon be available, and that the applicant family will be required to attend an interview meeting. The purpose of the interview meeting is to review the applicant family's application, discuss or identify and changes that may have occurred, discuss the rules and regulations, obtain signatures, release authorizations and verification forms so that proper verification of all information.

provided in the application may be obtained by AHA prior to the applicant family being housed. All adult household members of the applicant family must sign the application and a Release of Information Form, HUD Form 9887/9887-A in order for the application to be considered complete.

It is the responsibility of the applicant family to attend the scheduled application interview meeting. If the applicant family is unable to attend the interview meeting on the date scheduled by the AHA, the applicant family must notify the AHA to reschedule the interview in advance and in accordance with the AHA's notice requirements. If the applicant fails to reschedule or misses two (2) scheduled interview meetings, the AHA has the right to reject the application and remove the family from the waiting list. Applicants will be notified in writing if the application is rejected for this reason. The applicant family



may file an appeal in writing, in accordance with the AHA informal hearing procedures. The written appeal request must be received by AHA within 14 days.

If the applicant family is removed from the waiting list because the applicant's failure to respond was due to a verified disability, the AHA will reinstate the applicant to his/her former position on the waiting list.

If the AHA determines at the application interview meeting that more information is needed from the applicant family, the applicant family will be so advised, and the applicant family will be required to provide the requested information within five (5) business days.

If the AHA does not receive a response to this request within the specified time, the AHA will mail an ineligibility letter, and the applicant family will be removed from the waiting list. The applicant family may file an appeal, in writing in accordance with AHA's informal hearing procedures.

## I. Procedures for Rejecting Ineligible Applicants

### Eligible and Ineligible Applicants

Applicant families who are determined to be ineligible or unsuitable for admission will be notified promptly in writing by mail. These applicant families will receive a Notice of Rejection from the AHA stating the basis for such determination. The AHA will adhere to the following policies for denying admission which will be outlined in the Notice of Rejection to the applicant:

- The AHA will provide such applicants with an opportunity for an informal review of the determination by AHA.
- The applicant family must respond to the AHA in writing, within fourteen (14) days of receipt of the Notice of Rejection, to request an informal review or hearing.
- Applicant families have the right to request reasonable accommodation in order to attend the informal interview or hearing.
- Upon timely receipt of the applicant family's request, the AHA will schedule an informal interview or hearing.
- The informal interview or hearing will occur within the ten-daytime frame following the determination of ineligibility or unsuitability.

During the informal interview or hearing, the applicant family will be afforded the opportunity to present documented evidence with respect to:

- Eligibility issues; and
- Information pertaining to rehabilitation in the area of Tenant Selection or Screening (suitability).

In the event the applicant family is determined to be ineligible due to non-citizenship status, the AHA will notify them, in writing, of program ineligibility. The notice of denial or termination of assistance from AHA will advise the applicant family that:

- a. The AHA will deny or terminate rental assistance and provide reasons for this action;
- b. The applicant family may be eligible for proration of assistance if at least one member of the applicant family is determined to have citizenship status or eligible immigration status;
- c. Tenants – but not applicant families – may be eligible to obtain relief under the provisions for preservation of families (i.e., they may be eligible for a temporary

- deferral of denial of assistance).
- d. The applicant family has a right to request an appeal to the DHS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal;
  - e. The applicant family has a right to request an informal hearing with the AHA either upon completion of the DHS appeal or in lieu of the DHS appeal (the family can take advantage of two types of appeal); and
  - f. For applicant families, the notice of denial must advise that if they have failed the primary and secondary verification and submitted an appeal to the DHS, but the DHS process has not been concluded, the applicant will receive assistance in a timely manner. (If the DHS decision is negative, the family's assistance may then be terminated.) However, once the DHS appeal process is complete, and the family receives a negative decision on the DHS appeal, the owner may delay assistance while providing the family with an opportunity for an informal meeting to appeal the decision.

### **DHS Appeal Process**

1. Submission of appeal request. When the AHA receives notification from the DHS that secondary verification has failed to confirm eligible immigration status, the AHA will notify the applicant family of this result. The applicant family has 30 days from the date of AHA's notification to request an appeal of the DHS results. The applicant family must make the request in writing directly to the DHS and must provide the AHA with a copy of the written request for appeal and proof of mailing.
2. Documentation to be submitted as part of appeal to DHS. If the applicant family has additional documentation or written explanation to support this appeal, the applicant family must submit it directly to the DHS office. This material must include a copy of the DHS document verification request, Form DHS G-845S (used by AHA to process the secondary verification request), or any other form specified by the DHS, and a cover letter stating that the family is requesting an appeal of the DHS immigration status verification results.
3. When decision will be issued by DHS. The DHS will issue a decision to the applicant family within 30 days of its receipt of documentation concerning the applicant family's appeal of the verification of immigration status. The notice will be sent to the applicant family, and a copy will be sent to AHA. If, for any reason, the DHS is unable to issue a decision within 30 days, the DHS will inform the applicant family and AHA of the reason for the delay.
4. Notification of DHS decision and of informal hearing procedures. When the AHA receives a copy of the DHS decision, AHA will notify the applicant family of its right to request an informal hearing on the AHA's ineligibility determination.
5. No delay, denial, reduction, or termination of assistance until completion of DHS appeal process. Until any appeal made to the DHS is resolved, AHA will not delay, deny, reduce, or terminate assistance on the basis of immigration status.
6. When request for informal hearing is to be made. If the DHS decision will cause the applicant family to be denied, or if the applicant family chooses not to appeal to DHS, the applicant family may request that AHA provide an informal hearing. The request for a hearing must be made either within 30 days of receiving the notice from the AHA denying assistance, or within 30 days of receiving the DHS appeal decision.
7. Retention of documents. The AHA must retain for a minimum of 5 years the following documents that may have been submitted to the AHA by the applicant family, or provided to the AHA as part of the DHS appeal or the informal hearing process:

- a. The application;
- b. The form completed by the applicant family for income re-examination;
- c. Photocopies of any original documents (front and back), including original DHS documents;
- d. The signed verification consent form;
- e. The DHS verification results;
- f. The request for an DHS appeal;
- g. The final DHS determination;
- h. The request for an informal hearing; and
- i. The final informal hearing decision

The informal review will conform to due process requirements as established in the regulations. A final decision will be made within five (5) working days following the review.

## 5. THE VERIFICATION PROCESS

### A. Items Requiring Verification

In accordance with HUD Rules and Regulations, there are certain elements of an applicant family's household that AHA must verify. These elements include, but are not necessarily limited to:

- Family Composition of the Household
- Social Security Numbers for all Household Members
- Citizenship or Eligible No-Citizenship Status for each Household Member
- All forms of Income for the Household
- Current Assets for the Household
- Medical and/or Handicapped Assistance Expenses for the Household (*if applicable*)
- Preferences

### B. AHA's Verification Policy

#### Upfront Verification

AHA is required to use HUD's Enterprise Verification (EIV) System to verify if applicant families are currently residing in a subsidized unit or receiving assistance at another location. EIV is also used to verify household employment income or benefit income amounts reported by the applicant family.

Enterprise Income Verification (EIV) reports will be utilized by AHA as follows:

- EIV Existing Tenant Search will be run as a part of the applicant screening process. This report will determine if the applicant family is receiving federal rental assistance at another property or location and will require AHA to coordinate the applicant family's move-in date with the vacating property or location to prevent any duplicate subsidy payments.
- EIV Income Report and Income Summary Report will be run in advance of the time of recertification of family composition and income and will be used to verify eligibility and income information provided by the family.
- As required by HUD, e.g., monthly use of the Failed EIV Pre-screening Report and Failed Verification Report; and per H 10-08 and H 2010-10 and subsequent HUD notices.
- All other times as determined by AHA.

Detailed information about AHA's use of HUD's EIV system can be found in Chapter 18 of this Plan.

### Third Party Verification

The AHA will require that all applicant families and participants sign HUD 9887/9887-A and AHA required Release authorization and Consent forms for the purpose of obtaining independent verifications pertaining to eligibility, income and rent determinations. Third-party written verification will be requested by the AHA to the extent that such verification is possible. The AHA will request that the third-party verification be transmitted directly to the AHA by the third-party through the U. S. mail or similar service. In the event that either two attempts have been made to obtain written third-party verification without success, or third-party verification is not possible, a secondary method will be required. In cases where appropriate third-party verifications cannot be used, the AHA will document the file as to why another method was used. The AHA will attempt to obtain all verifications for the purpose of determining anticipated gross annual income and expenses for the subsequent 12-month period.

### Secondary Method of Verification

Secondary methods of verification include, but are not limited to, the methods listed below. In all cases the AHA reserves the right, in its sole discretion, to determine whether a particular secondary method of verification is acceptable:

- **Facsimile-transmitted documentation** directly issued to the AHA which has been signed or certified by an appropriate individual authorized to complete such verification. The AHA may verify the document's validity by telephoning the signatory.
- **E-mail documentation** directly transmitted to the AHA that contains an identifiable e-mail address from which it originated and indicates the appropriate individual and entity requested to verify the information; or an attached file that contains the requested information that clearly indicates authenticity. The AHA may verify the e-mail document's validity by telephone to the individual authorized to provide such verification. The AHA staff member will document the file as to the phone verification.
- **AHA viewing of original documents** such as pay stubs, government award letters, medical bills, income tax documents, checks, or other documents that would provide information as to applicable current or ongoing amounts received or disbursed by the family. The AHA staff member will review and determine the validity and/or accuracy of the document. The AHA will make a photocopy and document the applicable information on a form prescribed by the AHA after viewing the original. Government checks will not be photocopied, but will be documented by AHA staff.
- **Oral verification** through contacts made by telephone or in person, to an appropriate third-party. The AHA staff member will document the facts obtained, the time and date of the contact, the specific party who provided the information and other data on a form prescribed by the AHA.
- **Self-Certification** by the applicable family member who provides a statement that indicates the item(s) to be verified. This form of verification will be used when all other methods are not possible. The information will be specific and the certifier will be made aware of the consequences for knowingly providing false information.

### Computer Verification

Where allowed by HUD and in accordance with the policies and regulations of state or local government agencies, computer printouts, computer matching, and/or other automated verification methods will be



used by the AHA either in lieu of, or in addition to, written third-party verification. All forms of computer verification must be generated by and received directly from the verification source.

### C. Income, Assets and Income Exclusions

AHA uses HUD's current definition of Annual Income found at 24 CFR 5.609. Should this definition be revised, the current HUD definition will be used.

Annual income includes all amounts received from all sources by each adult member 18 years or older (even if temporarily absent) or the head of household or their spouse, plus unearned income by or on behalf of each dependent under 18 years of age, plus income from assets. Annual Income includes, but is not limited to:

#### Earned Income

Earned Income is defined as income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare assistance, Social Security, and other governmental subsidies / benefits), or any cash or in-kind benefits.

#### Unearned Income

Unearned income means any annual income, as calculated under 24 CFR § 5.609, that is not earned income.

#### Non-recurring income

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. However, income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under § 5.609(b)(24), even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

#### Assets

Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of investment, except as excluded. See Appendix C: Asset Exclusions.

If the Household has net assets valued in excess of the maximum amount currently set at \$50,000 (to be adjusted annually by HUD), the annual income will include the greater of the actual income derived from all assets or a percentage of the value of such assets based on the current passbook savings rate as determined by HUD.

For documentation of net family assets under \$50,000, the PHA may accept self-certification from the family that the assets are under that amount.

- Certification must include any expected income from the assets (actual returns only).
- No further documentation is required by the PHA for the net family asset restriction.
- Assets must be verified every 3 years.

## **Deductions from Income**

### Dependent and Elderly Family Deduction

#### Dependent Deduction

The dependent deduction amount is \$480 (2024). Effective upon the AHA HOTMA compliance date, HUD will adjust this amount annually and applies to a family's next annual or interim reexamination after the annual adjustment, whichever is sooner.

#### Elderly/Disabled Family Deduction

Effective upon the AHA HOTMA compliance date, the elderly/disabled family deduction increases from \$400 to \$525 and applies to a family's next interim or annual reexamination, whichever is sooner. HUD will adjust this amount annually.

### Health and Medical Expenses

Health and medical care expenses, as defined in 24 CFR § 5.603, include costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed. Medical insurance premiums continue to be eligible for health and medical care expenses.

Effective upon the AHA HOTMA compliance date, the sum of unreimbursed health and medical care and reasonable attendant care and auxiliary expenses that exceed 10 percent of the elderly or disabled family's annual income can be deducted from annual income. Prior to this date, the threshold for the medical deduction is 3%.

### Attendant Care and Auxiliary Apparatus Expenses

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the AHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

The AHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the

locality. To establish typical costs, the AHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the AHA will consider, the family's justification for costs that exceed typical costs in the area.

#### Childcare

Childcare is allowed as a deduction from income for children less than 13 years of age. The family must identify the family member(s) enabled to pursue an eligible activity: seeking work, pursuing an education, or being gainfully employed.

#### Excluded Income

The AHA income exclusions are provided as Appendix B: Income Exclusions.

#### D. Total Tenant Payment and Minimum Rent

The AHA will calculate the Total Tenant Payment (TTP) of all participants in the Section 8 New Construction NSA program in accordance with 24 CFR §5.628.

The AHA requires that each family who participates in the Section 8 New Construction NSA program pay a minimum rent of twenty-five dollars (\$25.00) including utilities. In cases of documented family hardship, the AHA may grant an exemption from the minimum rental amount for any of the following:

The family has lost eligibility, or is awaiting an eligibility determination, for a federal, state or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled for public benefits but for Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;

- The family would be evicted as a result of the imposition of the minimum rent requirement;
- The income of the family has decreased because of changed circumstance, including loss of employment;
- A death in the family has occurred; or
- Other valid reasons approved by the AHA on a case-by-case basis.

Families will be eligible for the hardship exemption only if the hardship is reported in writing to the AHA. AHA will exempt the family beginning the month following the month in which the exemption was requested. Verification will be conducted and the AHA will determine eligibility based upon the above- listed factors and HUD regulations.

#### **Health and Medical Care Expense Hardship**

##### Medical, Disability and Disability Apparatus Expense Threshold Hardship

In the event that the change effective upon the AHA HOTMA compliance date of the medical, disability and disability apparatus expense threshold from an amount exceeding the threshold of three percent (3%) to ten percent (10%) of the family annual income for unreimbursed health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses causes the elderly or disabled family (medical and disability expense) or family with a disabled member (disability apparatus expense) to experience a financial. This hardship is specifically for families that previously (last recertification) were using the deduction threshold of 3%.

The hardship remedy will be phased in as follows:



- The family will receive an initial hardship deduction totaling the sum of medical/attendant care and auxiliary apparatus expense that exceed 5 percent of annual income.
- Twelve months after the hardship is provided, the family must receive a deduction totaling the sum of expenses that exceed 7.5 percent of annual income.
- Twenty-four months after the initial hardship is provided, the family must receive a deduction totaling the sum of expenses that exceed ten percent of annual income.

### General Financial Hardship

This exemption is for families who can demonstrate a financial hardship due to an increase in their qualified expenses or because of a change that would not otherwise trigger an interim reexamination and that results in the family's inability to pay their portion of the rent. For purposes of this hardship exemption, the inability to pay rent is defined as the current tenant portion with monthly qualified expense is greater than 40% of family income.

The hardship remedy for this provision is the deduction of expenses exceeding 5% of their annual income for the sooner of 90 days or when the circumstances end. The AHA may, at their discretion, extend the relief for one or more additional 90-day periods while the family's hardship continues.

Families must report to the AHA when the circumstances that made the family eligible for the hardship exemption are no longer applicable.

### Hardship for loss of Childcare Expense

A family whose eligibility for the childcare expense deduction is ending may request a financial hardship to continue the childcare expense deduction. The AHA will recalculate the family's adjusted income and continue the childcare deduction if the family demonstrates that they are unable to pay their rent because of loss of the childcare expense deduction, and the child care expense is still necessary even though the family member is no longer employed or furthering his or her education. For purposes of this hardship exemption, the inability to pay rent is defined as the current tenant portion with monthly qualified expense is greater than 40% of family income.

The hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days but may extend such hardship exemptions for additional 90-day periods based on family circumstances. Families receiving a Hardship exemption for Childcare expense must report to the AHA when the circumstances that made the family eligible for the hardship exemption are no longer applicable.

### E. Zero Income

In any instance, if a family reports that it has no income being received by any family members, the AHA will require that the family report and certify every 90 days following the initial reporting date as to the total household income. The AHA may make further investigation into the family's information, if it appears that the family is receiving unreported income as defined in 24 CFR §5.609.

The following requirements apply to residents living in, or applicant families being admitted to, developments with resident-paid utilities:

- In developments with resident-paid utilities, each resident will receive a monthly utility allowance





that reflects a reasonable amount of utilities for the specific size and type of unit occupied.

- The AHA will pay, directly to the family, any amount by which the utility allowance for the unit exceeds the rent to AHA. A Utility Assistance Payments ("UAP") check will be issued at the same time as the normal disbursement of the Housing Assistance Payments (HAP) checks that occurs at the beginning of each month.
- When a resident makes application for utility service in his/her own name, he/she shall sign a third-party notification agreement so that the Authority will be notified if the resident fails to pay the utility bill.
- If a resident or applicant family is unable to get utilities connected in his/her name because of a previous balance owed the utility company at a prior address, the resident/applicant will not be permitted to move into a unit with resident-paid utilities until such time as the utilities can be turned on in their name.
- Paying the utility bill is the resident's obligation under the Authority's lease. Failure to pay for utilities and maintain utility services to a unit is cause for grounds for eviction.

#### F. Excess Utility Charges

Residents in units with master meters shall be charged for excess utilities if resident-supplied appliances or equipment are used in the unit beyond those expected for all residents. A standard schedule of excess utility charges is maintained in the AHA project office and updated annually.

## 6. OCCUPANCY STANDARDS

### A. Unit Size and Occupancy Standards

AHA's Section 8 New Construction NSA program properties consist of one, two, and three-bedroom units. The following unit size standards will govern the number of bedrooms required to accommodate a family of a given size and composition. Reasonable exceptions or accommodations to these standards may be made at the discretion of the AHA.

BEDROOM SIZE	MINIMUM NO. PERSONS	MAXIMUM NO. PERSONS
1 BR	1	2
2-BR	2	4
3-BR	3	6

### B. Factors for Determining and Assigning Unit Sizes

1. An unborn child or children will not be counted as a person except for determining unit size.
2. Dwelling Units will be so assigned that to the greatest extent feasible:
  - a. It shall not be necessary for persons of different generations or opposite sex, other than husband and wife, to occupy the same bedroom.
  - b. For verified reasons of health (age, physical disability, etc.), a separate bedroom may be provided for an individual family member upon admission or transferred to an appropriate-sized unit upon approval of the Executive Director or his/her designee.
  - c. The living room will not be regularly used as a bedroom, except in the case of an efficiency unit.
  - d. A single head of household parent shall not be required to share a bedroom with his/her

- children.
- e. Reassignment of transfers to other dwelling units shall be made in compliance with the AHA's non-discrimination policy.
  - f. When a female head of household originally housed in a one-bedroom unit has a child, that child can sleep in the parent's bedroom until it is five (5) years of age before a transfer will be recommended. (Exception: The husband returns to the unit or a marriage takes place.)

In determining the bedroom size, the following also will apply:

- a. Consideration will be given for a child who is away at school but returns to the unit during breaks or recesses;
- b. Consideration will be given due to age of same sex children;
- c. A child who is temporarily placed in foster care will be considered a member of the family household;
- d. Any live-in aide approved by the AHA to reside in the unit to care for a family member who is disabled or at least 50 years of age will be permitted a separate sleeping room;
- e. To avoid vacancies, a unit that is larger than that suggested by the above guidelines may be provided to a family provided that the family will move to a smaller unit upon request from AHA and within 30-days written notice when another applicant family needs the unit and a suitable smaller unit is available; and
- f. Larger units may be offered in order to improve marketing of a development suffering a high vacancy rate

## 7. UNIT TRANSFER POLICIES

In filling vacant units, Management shall first offer current residents on the Transfer List the option to relocate to another unit, provided such residents meet one of the following transfer conditions:

- A unit transfer due to a change in family size;
- A unit transfer due to change in family composition;
- A unit transfer due to the availability of a deeper subsidy (Rent Supplement, RAP, or Section 8);
- A unit change due to medical reason certified by a doctor; or
- A unit transfer based on the need for an accessible unit.
- Where persons without disability move into a physically accessible unit, they shall do so only after agreeing to move into a unit with no such design feature at their expense within 30 days of notification should an applicant or current resident require an accessible unit of the type currently occupied by the persons without the disability.

Management shall maintain a formal transfer list for current residents pursuant to these conditions.

When a vacancy occurs, Management shall determine if a transfer is warranted from the internal transfer list before proceeding to the general waiting list to select an applicant from the vacant unit.

When Management determines that a transfer is required the HUD Model Lease states that the tenant:

- May remain in the unit and pay the HUD-approved market rent; or
- Must move within 30 days after the family is notified that a unit of the required size is available.

Upon approval of the transfer, resident must complete the transfer within five calendar days.

Unit transfers shall take priority over new admissions. AHA shall maintain a separate unit transfer list to determine the priority, precedence and indicate the nature of the reason for the unit transfer. Upon receipt of a unit transfer request from an in-place household, such unit transfers will be approved by AHA for the following reasons in the priority order listed and the household will be placed on the separate unit transfer list:

**Priority 1:** For Emergencies as determined by the AHA

**Priority 2:** To permit modernization of the unit and/or building

**Priority 3:** To alleviate medical problems certified by a doctor

**Priority 4:** To correct occupancy standards or because of changes in family composition

Residents **shall not** be transferred to a dwelling unit of equal size within the project except for alleviating hardships as determined by the AHA Executive Director or his/her designee.

#### A. Assigning Accessible Units

When an adapted/accessible unit becomes available, the adapted/accessible unit will be offered in the following manner:

1. First, to a current occupant of another unit of the same project who has a disability which requires the accessibility or design features of the vacant unit.
2. Second, to an eligible qualified applicant family on the waiting list who has a disability which requires the accessibility features of the vacant unit.
3. Third, to an eligible non-handicapped applicant (the AHA may require the applicant to agree to move to a non-accessible unit within thirty (30) days when available if another applicant requires the accessibility features of the accessible unit; this agreement may be incorporated into the lease).

Refusal by the family of a transfer to an available appropriate unit will result in the AHA increasing the family's rent to the market rent of the current unit. However, if after charging the market rent, the family fails to pay the rent in accordance with the lease, the AHA may evict the family.

## 8. POLICIES TO COMPLY WITH SECTION 504, THE FAIR HOUSING ACT AND CIVIL RIGHTS ACT

The policy of the AHA is to treat all applicants and occupants in a fair and consistent manner, and to avoid any potential aspects of discriminatory practices. Section 504 of the Rehabilitation Act of 1973 guarantees



certain rights to people with disabilities and prohibits discrimination on the basis of disability in any federally funded program or activity.

The Fair Housing Act prohibits discrimination in the sale, rental or financing of housing on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation or gender identity. Federal law also prohibits discrimination on the basis of age.

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color or national origin in any federally funded program or activity.

The AHA does not discriminate on the basis of handicap / disability status, and does not discriminate on the basis of race, color, religion, sex, handicap, familial status, age, marital status, national origin, sexual orientation or gender identity as it applies to housing regardless of the presence of federal assistance.

## 9. WAITING LIST MANAGEMENT

### A. Waiting List Content

The AHA maintains a waiting list for Section 8 New Construction NSA program applicants separate from its Section 8 Housing Choice Voucher and Low-Income Public Housing program waiting lists. However, applicants may choose to apply for any or all AHA housing programs offered. Each application is positioned on the waiting list based upon information submitted by the applicant, information taken from the application, the date and time of receipt of the application and unit size requested by the applicant family.

Applicant families must inform the AHA of any changes of information listed on their application (e.g., change of address, change in income, change in family composition or preferences). Application information changes must be made by applicant families by accessing their online application and updating the pertinent information. Applications submitted by applicant families which need to be updated can be accessed via the online application portal located at <https://apply.allentownhousing.org/>. Applicants will need to enter their username and password in order to access and update their online application and may also contact the AHA during normal business hours of Monday – Friday between 8:30am and 4:30pm to request assistance in updating the application. Failure of applicant families to notify the AHA of such changes in information may result in application denial and the applicant's removal from the Section 8 New Construction NSA waiting list in accordance with the AHA's Informal Hearing Procedures.

At a minimum, the Section 8 New Construction NSA program waiting list will contain the following applicant information taken from the application:

1. Date and time that AHA received the application
2. Name of applicant head of household;
3. Annual Income level (indicator for extremely low or very low-income applicants);
4. Identification of the need for an accessible unit or the need for the features designed for units for persons with disabilities;
5. Preference status; and
6. Unit size requested (based upon occupancy standards)

Each applicant family shall be assigned his/her appropriate place on the Section 8 New Construction NSA

waiting list in chronological sequence based upon date and time the application was received; suitable type or size of unit; and factors affecting preference or priority established by the AHA's regulations which are consistent with the objectives of Title 6 of the Civil Rights Act of 1964 and the HUD regulations and requirements pursuant thereto.

#### B. Procedures for Opening and Closing the Waiting List

The AHA will monitor vacancies and the Section 8 New Construction NSA waiting list regularly to ensure that there are enough applicants on the waiting list to fill vacancies. Furthermore, the AHA will monitor the volume of applicants on the Section 8 New Construction NSA waiting list to make certain that the list of applicants does not become so large that the wait for a particular unit size becomes excessive. HUD defines the term "excessive" wait period to be that of one (1) year or greater.

In order to maintain a balanced and sufficiently sized pool of housing applications, the AHA, at its discretion, may choose to open or close the Section 8 New Construction NSA waiting lists in whole or in part from time to time which may restrict the receipt, acceptance and intake of rental applications. Decisions about whether to open or close the Section 8 New Construction NSA waiting list in-whole or in part for certain unit sizes will be made by the AHA from time to time and will be based on the current number of applications available for each particular unit size and/or unit type and the ability of the AHA to house an applicant family in an appropriate unit within a reasonable period of time. A reasonable period of time is defined by HUD as a period of less than one (1) year. Wait periods for one or more unit sizes that are greater than one year are considered by HUD to be excessive.

Closure of the waiting list in whole or in part, or restricting the intake of applications, or the re-opening of the closed Section 8 New Construction NSA waiting list in whole or in part for any units will be publicly announced and published in all forms of media in accordance with the approved Affirmative Fair Housing Marketing Plan.

During the period when the Section 8 New Construction NSA waiting list is closed in whole or in part for any unit size, applications will not be accepted and the AHA will not maintain an inquiry list or any other list of individuals who wish to be notified when the Section 8 New Construction NSA waiting list is reopened.

The opening and/or closing of the waiting list in whole or in part for any unit size will be publicly advertised in all media per the approved Affirmative Fair Housing Marketing Plan. Examples of such announcements may include newspaper articles, radio and/or television ads, website postings, community outreach letters to community contacts. Any publications or advertisements produced will include instructions to applicants on where, when and how to apply for the Section 8 New Construction NSA program.

#### C. Waiting List Updates

At least annually, the AHA staff will review the list of applicants on the waiting list and will issue each applicant family on the waiting list an update notice requesting the applicant's response and continued interest to remain on the Section 8 New Construction NSA waiting list. Applicant families will need to provide AHA with the appropriate response in a timely fashion as instructed within the update notice.

Applicant families who respond with continued interest will remain on the waiting list while applicant families who are no longer interested in obtaining housing in the Section 8 New Construction NSA program or who fail to respond to AHA's waiting list update notice, either timely or altogether, will be removed from the Section 8 New Construction NSA waiting list. AHA will update the waiting list

accordingly, based on the responses received or not received from applicant families, and will enter comments, notes, dates and time in the waiting list for any action or actions taken for each applicant family.

#### D. Method of Applicant Assignment and Selection from Waitlist

In accordance with the AHA'S Admission Policy, the plan for selection of applicants and assignment of dwelling units to assure equal opportunity and non-discrimination on grounds of race, color, marital status, sexual orientation, gender identity, national origin, sex, religion, familial status, or disability is as follows:

1. The AHA hereby establishes a Plan whereby the eligible applicant family first in sequence must either accept the vacant unit offered or be removed from the waiting list. Any applicant who rejects a unit offer, for any reason other than a family member's disability, will have his/her name removed from the waiting list. Written documentation relating to medical reasons or the determination of a person's need for reasonable accommodation must be provided for the applicant to retain his/her position on the Section 8 New Construction NSA waiting list.
2. If an applicant family is willing to accept the unit offered but provides written proof satisfactory to the AHA that he/she is unable to move at the time of offer, the applicant's refusal of the offer will not automatically result in his/her name being moved to the last position on the waiting list. The AHA will have the sole discretion in determining the acceptability of any such documentation.

#### E. Removal of Applicants from the WaitingList

The AHA will not remove an applicant family's name from the waiting list unless:

1. The applicant requests in writing that his/her name be removed;
2. The applicant family has failed to advise AHA of his/her continued interest in Section 8 New Construction NSA program;
3. The AHA requires applicants to notify the AHA annually of any change in family status or change in mailing address;
4. AHA has made reasonable efforts to contact the applicant to determine continued interest but has been unsuccessful. Phone calls made or correspondence mailed to the applicant family's latest address will constitute documentation of reasonable effort to contact the applicant;
5. AHA notified the applicant family of its intention to remove the applicant's name because the applicant family no longer qualifies for the Section 8 New Construction NSA program;
6. AHA has made reasonable efforts to contact the applicant to schedule interview meetings necessary to complete the application process or obtain information necessary to process the application, and the applicant family has failed to respond to requests for information;
7. An applicant family fails to keep a scheduled interview meeting or fails to respond to AHA concerning information that is necessary to process the application. AHA will notify the applicant family in writing that he/she has five (5) business days within which to reschedule the interview meeting or provide the needed information requested. If the applicant family fails to respond within the prescribed timeframe the application will be withdrawn from the waiting list; or
8. The applicant fails to pay an outstanding debt or balance owed to the AHA or any other subsidized program within the times specified.

If an applicant family's failure to respond to a request for information or update was caused by his/her

disability, the AHA will provide reasonable accommodation to allow the applicant family an opportunity to respond.

## 10. ELIGIBILITY OF STUDENTS

The AHA must determine a student's eligibility for Section 8 assistance at time of move-in, annual recertification, initial certification (when an in-place tenant begins receiving Section 8), and at the time of an interim recertification if one of the family composition changes reported is that a household member is enrolled as a student.

### A. Definition of Student

On December 30, 2005, HUD published a Final Rule which implemented a new rule that restricts Section 8 rental assistance to certain individuals who are determined to be students. Under the Student Rule, Section 8 rental assistance shall not be provided to any individual who is enrolled as either a part-time or full-time student at an institution of higher education for the purpose of obtaining a degree, certificate, or another program leading to a recognized educational credential who is;

1. Is under the age of 24;
2. Is not married;
3. Is not a veteran of the United States Military;
4. Does not have a dependent child;
5. Is not a person with disabilities, as such term is defined in 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(E)) and was not receiving section 8 assistance as of \*November 30, 2005;
6. Is not living with his or her parents who are receiving Section 8 assistance; and
7. Is not individually eligible to receive Section 8 assistance **and** has parents (the parents individually or jointly) who are not income eligible to receive Section 8 assistance.

### B. Clarification of HUD Definition of Independent Student

HUD aligned the definition of "Independent Student" with the U.S. Department of Education's definition of "Independent Student." The definition of Independent Student was updated to include those who were an orphan, in foster care, or ward of court at the age of 13 (previous definition had age 18 and did not include "in foster care"). The new Independent Student definition also added those students who are or were emancipated or in legal guardianship; and added unaccompanied youths who are homeless or at risk of homelessness.

### C. Vulnerable Youth Population

HUD also clarified the documentation needed to support "vulnerable youth populations" that are independent of his or her parents (where the income of the parents is not relevant). Vulnerable youth populations include an orphan, in foster care, ward of the court, emancipated minor, unaccompanied homeless youth, and youth at risk of being homeless. This clarification indicated that for vulnerable youth populations:

1. The tax return requirement only applies to providing the student's tax returns and not that of the student's parents, and
2. A written certification is not required by the student's parent. The previous requirements created barriers for vulnerable youth to receive assistance and continue their education.



For a student to be eligible independent of his or her parents (where the income of the parents is not relevant), the student must demonstrate the absence of, or his or her independence from parents. While the AHA may use additional criteria for determining the student's independence from parents, the AHA must use, and the student must meet, at a minimum **all** the following criteria to be eligible for Section 8 assistance. The student must:

- A. Be of legal contract age under state law;
- B. Have established a household separate from parents or legal guardians for at least one year prior to application for occupancy, **or**, meet the U.S. Department of Education's definition of an independent student;
- C. Not be claimed as a dependent by parents or legal guardians pursuant to IRS regulations; and
- D. Obtain a certification of the amount of financial assistance that will be provided by parents, signed by the individual providing the support. This certification is required even if no assistance will be provided.

If an ineligible student is a member of an existing household receiving Section 8 assistance, the assistance for the household will not be prorated but will be terminated. NOTE: The AHA cannot evict or require an ineligible student to move from a unit as long as the student is in compliance with the terms of the lease. (Reference HUD Handbook 4350.3 REV-1, Change 4 and applicable Federal Register published 4/10/06.)

## 11. VIOLENCE AGAINST WOMEN ACT (VAWA) PROTECTIONS

### A. VAWA History

On January 5, 2006, President Bush signed into law the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162) and on August 12, 2006, signed into law technical corrections to the VAWA (Public Law 109-271).

On March 7, 2013, President Obama signed the Violence Against Women Reauthorization Act of 2013. VAWA 2013 is built upon the overarching goals of the initial 1994 VAWA and its subsequent 2000 and 2005 reauthorizations to provide and improve advocacy, services, and support for all victims of domestic violence, dating violence, sexual assault and stalking – crimes that primarily impact women, in addition to too many children and some men. Of historical significance is language in VAWA 2013 that recognizes:

- 1. The inherent authority of Tribal law enforcement and Courts to protect Tribal communities against non-Tribal individuals who commit domestic or dating violence, or violate an order of protection; and
- 2. The rights of lesbian, gay, bisexual and transgender people to access VAWA protections and services without discrimination.

On November 16, 2015, HUD published in the Federal Register the final rule implementing housing provisions under the Violence Against Women Reauthorization Act of 2013 (VAWA) as it applies to HUD programs. The rule codifies VAWA core protections across covered HUD programs to ensure individuals are not denied assistance, evicted, or have their assistance terminated because of their status as victims of domestic violence, dating violence, sexual assault and stalking, or for being affiliated with a victim.

### B. VAWA Rules and Regulations

AHA's NSA TSP and House Rules, where applicable, include policies and procedures to support VAWA





protections as required by HUD. AHA staff will support or assist victims of domestic violence, dating violence, sexual assault or stalking, and protect victims, as well as affiliated individuals, from being evicted from or denied HUD assisted housing as a result of, or as a consequence of domestic violence, dating violence, sexual assault or stalking.

AHA staff will inform applicant families and current occupants of their rights and obligations under VAWA and require each adult household member to sign and agree to the VAWA Lease Addendum, form HUD 91067.

In the event that an applicant family or current occupant reveals to AHA that they or other members of the household family are victims of domestic abuse or violence, dating violence, sexual assault or stalking, the AHA staff will provide the applicant family or current household member the opportunity to complete Form HUD-5382, "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternative Documentation." This certification form will be available to all eligible applicant families at time of admission, or in the event of a termination or start of an eviction for cause preceding. The certification form may be enclosed with the appropriate notice, directing the applicant family or current household member to complete, sign and return the certification form within fourteen (14) business days. AHA may extend this fourteen (14) day time-period due to extenuating circumstances or at the AHA's discretion.

Alternately, in lieu of the certification form or in addition to it, AHA may accept:

1. A federal, state, tribal, territorial, or local police record or court record, or
2. Documentation signed by an employee, agent, volunteer of a victim service provider, an attorney, or medical professional from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault or stalking or, the effects of the abuse in which the professional attests under penalty of perjury under 28 U.S.C. 1746 to the professional's belief that the incident or incidents are bona fide incidents of abuse, and the victim of domestic violence, dating violence, sexual assault or stalking has signed or attested to the documentation.

The AHA is not required to demand that an individual produce official documentation or physical proof of an individual's status as a victim of domestic violence, dating violence, sexual assault or stalking in order to receive the protections under VAWA. AHA staff, at their discretion, may provide assistance to an individual based solely upon the individual's statement or other corroborating evidence. AHA staff will carefully evaluate abuse claims as to avoid terminating assistance or conducting an eviction based on false or unsubstantiated accusations.

Assistance to victims under VAWA may include but are not limited to removal of the offender from the assisted unit, bifurcating the lease for victims to allow them to remain in the assisted unit or allowing early termination of the lease to allow or assist victims in relocating to another assisted unit or building.

### C. Delivery of VAWA Certification Form

AHA staff will be mindful that the delivery of the certification form to the applicant family or current occupant or household member via U.S. mail may place the victim at risk, (e.g., the abuser may monitor the victim's mail, etc.), therefore, in order to mitigate risks, AHA staff will work with the applicant family, occupant or household member to determine acceptable delivery arrangements, such as inviting them into the office to pick up the certification form or making other discreet arrangements.

#### D. Confidentiality of Information

The identity of the victim and all information provided to AHA staff relating to the incident(s) of domestic abuse or violence, dating violence, sexual assault or stalking will be retained in a separate file, in confidence and will not be entered into any central or shared database or provided to any related entity, except to the extent that the disclosure is:

1. Requested or consented to by the individual in writing;
2. Required for use in an eviction proceeding; or
3. Otherwise required by applicable law.

AHA will retain all documentation relating to a report of domestic violence, dating violence, sexual assault or stalking in a separate file that is kept in a separate secure location from other tenant files.

## 12. LEASING OF DWELLING UNITS

### A. The Leasing Process

Only after the AHA has completed the application process, determined the applicant family has successfully passed all screening criteria, and AHA has determined applicant eligibility, will an applicant family at the top of the waiting list be offered a unit. Upon acceptance of the unit the applicant family and the AHA, will enter into, and execute a lease agreement. A lease agreement is a legal binding agreement and all terms and conditions shall be agreed to, signed and dated by the head, spouse, co-head and all other adult members of the household accepted as a tenant family and by the Executive Director or his/her designee prior to actual admission and acceptance of occupancy of a unit.

The lease form used by AHA is prescribed by HUD and contains all necessary terms and conditions that must be agreed to and adhered to by the applicant family and all household members during the period of occupancy or tenancy. As discussed in Chapter 14, a security deposit of one month's total tenant payment (TTP) will be required to be paid by or on behalf of the applicant family at the time the lease agreement is executed.

If a tenant family transfers to another unit within the community or changes dwelling units, a new lease will be executed prior to move-in at the new unit.

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

1. A new lease agreement will be executed;
2. A Notice of Rent Adjustment will be issued to the tenant; or
3. An appropriate lease amendment or rider will be prepared and made a part of the existing lease, or appropriate insertions will be made within the lease if approved by HUD. All copies of such riders or inserts are to be dated and signed by the tenant and the Executive Director or other authorized representative of the AHA

Only those persons listed on the most recent executed HUD 50059 certification form shall be permitted to occupy a dwelling unit unless there is a birth to a family member or an addition which has been authorized by the AHA's designee in writing. Following receipt of a family's request for approval to add a new person to the lease, the AHA will conduct a pre-admission screening of the proposed new occupant. The results of the screening shall be used to determine whether the AHA will approve admitting the new occupant. Residents who fail to notify the AHA of additions to the household, or who permit persons to

join the household without undergoing screening, are in violation of the lease. Such persons will be considered to be unauthorized occupants by the AHA and the entire household will be subject to eviction.

Family members over the age of 18 who move from the dwelling unit to establish new households shall be removed from the lease. These individuals may not be readmitted to the unit and must apply as a new applicant household for placement on the Section 8 New Construction NSA waiting list (subject to applicable income limits, tenant selection, and screening requirements). Medical hardship or other extenuating circumstances shall be considered by the Housing Manager in making determinations under this paragraph.

Overnight adult guests are permitted to visit the tenant and occupy a unit for up to 14 days in a twelve-month period with AHA approval. Overnight guests may be permitted in a dwelling unit, provided that the family has reported the guest(s), in writing, to the Housing Manager prior to or within 72 hours of their arrival. Visitors or guests are not members of the family; however, the tenant is responsible for the conduct of all visitors or guests. If the person is a visitor and does not intend to become a "permanent" member of the family, the AHA does not have to consider this to be a change in family composition.

If the visitor or guest remains in the tenant's unit for more than 14 consecutive days, it will be considered to be a violation of the Family Obligations and the Lease and grounds for termination of the family.

Roomers and lodgers shall not be permitted to occupy a dwelling unit; nor shall they be permitted to move in with any family occupying a dwelling. Only tenants are permitted to use the address of the complex.

Tenants will not be given permission to allow a former tenant of the Authority who has been evicted to occupy the unit for any period of time.

#### B. Charges in Addition to Rent

The AHA maintains a list of fees and charges which are considered to be "in addition to rent". These fees and charges include, but are not limited to costs associated with the AHA's repair of tenant caused damages due to neglect or abuse, tenant lockouts, etc. The AHA maintains this list of fees and charges which is posted at the AHA office and applicant families are encouraged to view the list. In the event that an occupant or family is charged a fee or fees for such repairs or services they will be issued a notice in writing by AHA with instructions for which payment must be received.

##### Late Fees

If the tenant does not pay the full amount of the rent due by the end of the 5th calendar day of the month, the AHA may collect a late fee of \$5.00 on the 6th day of the month and \$1.00 per day until the rent is paid, not to exceed a total late fee of \$30.00 per month. Such late fees may be considered as "Added Rent" and due and payable by the tenant. The AHA may not terminate the lease for failure to pay late charges, but may terminate this lease for non-payment of rent.

##### Non-Sufficient Funds

The AHA may impose a fee on the second and any additional time that a check is not honored for payment (bounces). The AHA will bill the tenant only for the amount the bank charges for processing the returned check. The charges described in this paragraph are in addition to the regular monthly rent payable by the

### Damages

Whenever damage to a unit is caused by carelessness, misuse, or neglect on the part of the tenant, household member, or visitor/guest, the tenant is obligated to reimburse the AHA for the cost to repair damages within 30 days after the tenant receives a notice or bill from the AHA. The AHA may deduct accrued, unpaid damage charges from the tenant's security deposit at the time of move-out.

## C. Termination Procedures

### **Termination Notice Requirements**

#### Termination by Tenant

In order for a tenant to terminate tenancy, the tenant must provide the AHA with a proper written 30-day advance notice to vacate the unit, as required by the HUD lease.

#### Termination by AHA

The requirements and procedures for terminating tenancy provide the AHA with a mechanism to ensure that the tenant is fulfilling his/her obligations under the lease.

These obligations include abiding by the lease and the house rules attached to and incorporated into the lease, paying rent when due, maintaining the unit, and permitting other tenants' peaceful enjoyment of their units and the project common areas. Additionally, the termination of tenancy provides a mechanism to evict tenants who commit fraud or fail to provide the information required by HUD to establish their eligibility and/or appropriate rent.

No tenant shall be given a Notice of Lease Termination or Termination of Assistance without being informed in writing of the reason for the termination by the AHA. The tenant must also be informed of his/her right to request a hearing in accordance with the Informal Hearing Procedure and be given the opportunity to make such a reply as he/she may wish. The notice must be served by:

1. Sending a Notice of Lease Termination by first class mail, properly stamped and addressed and including a return address, to the tenant at the unit address; and
2. Delivering a copy of the Lease termination notice to any adult person answering the door at the unit. If no adult answers the door, the person serving the notice may place it under or through the door or affix it to the door.

Service of the notice is deemed effective once the notice has been both mailed and hand delivered.

Certain actions are excluded from the Grievance Procedure:

1. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or Authority employees;
2. Any drug-related criminal activity on or off Authority premises; or
3. Any drug or alcohol abuse that interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.

### Record Keeping Requirements

A written record of every termination and/or eviction shall be maintained by the AHA and shall contain the following information:

1. Name of tenant, number and identification of unit occupied;



2. Date(s) of the 30-Day Notice of Lease Termination in accordance with the lease and Handbook 4350.3 (HUD Requirement) and the Notice to Quit (State law requirement);
3. Specific reason(s) for the Notices, with lease violations, disturbances, and other facts pertinent to the issuing of the Notices described in detail;
4. Date and method of notifying the tenant; and

Summaries of any conferences held with the tenant, including names of conference participants and conclusions.

### 13. SECURITY DEPOSIT REQUIREMENTS

#### A. General Security Deposit Information

Security deposits provide AHA with some financial protection when a tenant moves out of the unit being leased and fails to fulfill his/her obligations under the lease. Additionally, the HUD Section 8 New Construction NSA program requires the AHA to collect a security deposit from the applicant family at time of lease signing and move-in. The applicant family is expected to pay for the Security Deposit from his/her own resources, and/or other private/public resources and may be rejected or refused occupancy in the event they are unable to provide sufficient funds or pay for the security deposit at time of lease signing or move-in.

#### B. Amount of Security Deposits

The amount of the Security Deposit collected by AHA at time of lease signing or move-in is the greater of one month's Total Tenant Payment (TTP), or \$50. The TTP amount is calculated by adding together the tenant rent (TR) being charged for the unit along with the amount of utilities for the unit size/type. The Security Deposit amount established at move-in does not change if/when a tenant's rent changes during the period of occupancy.

The AHA will place security deposits in separate interest-bearing accounts and allocate the interest earned on the security deposit to the tenant.

#### C. Security Deposit Use

At time of move-out or upon vacating the leased unit, the AHA must inspect the unit (in accordance with Section 13 of this Plan) to record the condition of the unit at time of move-out, and the results of the inspection are recorded on the unit inspection form. This form is retained in the tenant file along with other occupancy related documents for the tenant. Damages or repairs needed to the unit found by AHA to be above and beyond normal wear and tear will be itemized and presented to the vacating tenant who will be responsible for payment of repairs or damages determined to be above and beyond normal wear and tear.

These amounts, along with any unpaid tenant rent, accrued and unpaid late fees or other charges may also be deducted from the security deposit amount in order to reimburse AHA for any outstanding and unpaid charges, or expenses incurred with bringing the vacated unit back to occupancy standards.

Within thirty (30) days of the date of move-out, the AHA will forward a security deposit disposition notice to the vacating tenant and will either refund the security deposit in whole, including interest earned on the security deposit, or will provide an itemized list of any fees deducted from the security deposit amount. Any remaining balance of the security deposit amount will be refunded to the vacating tenant

family, or in the event the security deposit amount is not sufficient to cover the cost of the itemized deductions a notice and demand for payment will be provided to the vacating tenant. Vacating tenants have the right to discuss and dispute any charges deducted from the security deposit amount.

#### D. Security Deposits for Tenants Transferring to Another Unit

When a tenant transfers to a new unit, the AHA may transfer the previously collected security deposit to the new unit or charge a new security deposit and refund the security deposit for the unit being vacated.

If the security deposit for the vacated unit is refunded, the AHA will follow the requirements listed in HUD Handbook 4350.3 REV-1 paragraph 6-18 and Section 12-D of this Plan regarding the refunding and use of the security deposit and establish a security deposit for the new unit based on the requirements listed Section 12-A of this Plan.

## 14. UNIT INSPECTIONS

In accordance with the HUD Model lease requirements, unit inspections are required at three times: prior to or at time of applicant move-in, upon move-out, and at least once annually during the period of occupancy. Unit Inspections are conducted to document the condition of the unit at move-in, move-out and during occupancy to assure compliance with applicable HUD standards and will be administered in accordance with the following:

### A. Pre-Occupancy Inspections (Move-in)

1. The AHA and the tenant or his/her representative will inspect the dwelling unit prior to occupancy by the tenant. The AHA will provide the tenant with a copy of the completed inspection form documenting the condition of the premises, interior and exterior as applicable, and any equipment provided with the unit at time of move-in.
2. The inspection form shall be signed by the AHA staff member and tenant and a copy of the form will be retained in the tenant's file. Any deficiencies noted on the inspection form will be corrected by the AHA either before the tenant move-in date or within thirty (30) days after the tenant move-in date at no charge to the tenant.

### B. Annual Inspections

1. The AHA will inspect all occupied units at least annually. More frequent inspections will be conducted as required by unit conditions. Tenants will be notified as to the date and time of inspection in accordance with the lease.
2. In addition to the HUD-required standards, annual inspections will evaluate: tenant housekeeping habits and unit conditions against lease standards, safety conditions, tenant's care of the dwelling unit, and compliance with other obligations under the lease. As such, the tenant will be informed of deficiencies and notified of any action required by the tenant or the AHA to correct deficiencies.
3. Where tenant action is required, re-inspections will be conducted as required.

### C. Termination Inspection (Move-out)

1. The AHA will inspect the unit at the time the tenant vacates the unit and provide the vacating tenant with a written statement of the charges, if any, for which the tenant is responsible. The vacating tenant and/or a tenant representative may join such inspection unless the tenant

## 15. ANNUAL RECERTIFICATION REQUIREMENTS

Only those occupants who meet the following criteria will be eligible for continued occupancy and recertification:

- Qualify as a family as defined by the regulations and PIH Notices; and
- Are in full compliance with resident's obligations and responsibilities as listed in the resident's dwelling lease.

### A. Annual Reexaminations

The AHA will examine family income, size and composition, at admission and at least annually for the purpose of determining rent and eligibility. The examination will include that of income and other family information. Verification will be in accordance with Chapter 5 of this Plan. The family must sign and submit required documentation and verification which the AHA deems necessary for the purpose of determining annual income, adjusted income or total tenant payment; or for the purpose of auditing the family's eligibility to receive assistance.

### B. Reporting Requirements

1. Families who participate in the Section 8 New Construction NSA program must report all changes in family income, assets, composition, and other related items as identified in 24 CFR part 5 subpart B when the change occurs. Such changes must be reported in accordance with the "Immediate Reporting" requirements of this Plan. Participants who report no income will be subject to the "Zero Income" requirements of this Plan.
2. Families must supply all information requested by the AHA or HUD for use in admission of an applicant, a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements. "Information" includes any requested documentation, release authorization or certification form.
3. The AHA must approve the composition of the assisted unit including approval of the inclusion of a live-in aide.
4. Any information supplied by the family must be true and correct.
5. Failure by the family to comply with these reporting requirements is considered to be a violation of their obligations and grounds for termination of participation.

### C. Annual Recertification Reporting Exceptions

Families who receive Social Security, Social Security Disability, or Supplemental Security Income ("SSI") are not required to report their annual increase when it occurs. The AHA will not increase the family's total tenant payment until their next regularly scheduled annual reexamination except when an interim recertification is necessary as a result of any other changes listed in the "Reporting Requirements" section of this chapter.

### D. Zero Income Households

In any instance, if a family reports that it has no income being received by family members, the AHA will require that the family report and certify every 90 days following the initial reporting date as to the total household income. Each adult family member will also be required to complete a Zero Income Packet. The AHA may begin eviction procedures. to a participant family that claims zero income if evidence exists that



the family is receiving income as defined in 24 CFR § 5.609. Any family whose participation is to be terminated under this section will be given the opportunity for a hearing in accordance with the Informal Hearing Procedures.

#### E. Absent Family / Family Member

The family will need to declare a member as permanently or temporarily absent in writing to the AHA. The AHA will advise the family at that time, or at reexamination what the options are and how they might affect the Total Tenant Payment or the unit size. AHA will utilize the following policies in determining temporary/permanent absences:

1. Absence by the family from their unit and the tenant's failure to pay the rent due for the unit, will be considered by AHA as to be abandonment of the unit. The family's assistance will be terminated and they will be provided an opportunity to request a hearing.
2. If a member of the family leaves the unit for 90 days or more, they will be considered to be permanently absent. The AHA will determine if the family's unit size must be changed to meet the occupancy standards. The AHA will review each family's circumstances on a case by case basis.

If a single-member household is absent for more than 90 days, his/her assistance will be terminated, unless he/she requests an extension, provides documentation, and is granted, an extension. Third-party documentation acceptable to the AHA must be submitted (such as from a hospital, hospice, etc.) that indicates that he/she will return within the next 90 days (maximum absence cannot exceed 180 days).

The AHA will include the income of all temporarily absent family members when determining the TTP. If the head of household, spouse or co-head of household is temporarily absent, his/her entire income is counted.

The following will be considered to be permanently absent family members and will not be included in the household:

- Family members in the military (excluding head and/or spouse);
- Children who do not reside in the household at least 50% of the time; and
- Family members who have been incarcerated for more than 180 days.

#### F. Annual Recertification Process

1. At least every twelve months the AHA will conduct a reexamination of the family's income, composition and circumstances. The process will begin at least 120 days prior to the tenant's lease anniversary date whereby the AHA will mail a reminder notification to the family to schedule an appointment for the purpose of annual reexamination. The family will complete an application for continued occupancy, applicable release forms and other forms deemed to be necessary by the AHA for the purpose of annual reexamination at the scheduled appointment.

The AHA will use the prior year income received by the family to determine household annual income at the annual recertification (unless using the streamlined income determination for sources of fixed income). HUD defines the prior year income as the income received during the preceding 12 months. AHA will review any change of income since the family's last annual



reexamination, including those that did not meet the threshold to process an interim reexamination of family income, and non-recurring income when determining prior year income.

2. Annual reexaminations will be conducted in person between AHA staff and the tenant.
3. A master list of annual reexaminations that are due will be maintained by AHA based upon the monthly anniversary date of the participant. This will ensure that each eligible family will have an annual reexamination every twelve months. In addition, the list will be used for AHA record keeping and tracking of the reexamination progress. Such lists will be maintained by the AHA for at least seven (7) years.
4. The effective date of an annual reexamination will occur on the annual reexamination anniversary date of the family.

#### Safe Harbor Income Determination

For the purposes of determining income eligibility and annual re-examinations, the AHA may determine a family's annual income, including income from assets, prior to the application of any deductions based on income determinations made within the previous 12-month period, using income determinations from the following types of means-tested federal public assistance programs:

- The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.).
- Medicaid (42 U.S.C. 1396 et seq.).
- The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.).
- The Earned Income Tax Credit (26 U.S.C. 32).
- The Low Income Housing Tax Credit (26 U.S.C. 42).
- The Special Supplemental Nutrition Program for Woman, Infants, and Children (42 U.S.C. 1786).
- Supplemental Security Income (42 U.S.C. 1381 et seq.).
- Other programs administered by the Secretary.
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding.
- Other federal benefit determinations made by other means-tested federal programs that the Secretary determines to have comparable reliability and announces through a Federal Register notice.

If the family presents the AHA with multiple income determinations either from one or more of the above listed programs, the AHA will use the most recent income determination to establish the annual income prior to deduction/allowances.

#### G. Family Obligation to Recertify

1. The family will be notified in writing by mail at least 120 days in advance that they must attend a recertification interview in order for the AHA to review their current family circumstances as to income and family composition. The appointment notice will identify the date, time and place of the recertification interview. Included with the notice will be an Application for Continued Occupancy form that must be completed, signed by all adult household members of the family and submitted to the AHA at the recertification interview along with any required documentation identified in the notice.

2. If the family cancels or fails to attend the scheduled recertification interview, a second reminder notification to reschedule will be mailed at least 90 days prior to the anniversary date. If the family does not attend the scheduled second interview a third notice will be sent at least 60 days prior to the anniversary date to the household. If the family cancels or fails to attend the rescheduled recertification interview, a Termination Notice will be issued at least 30 days prior to the anniversary date. The notices will be based on the following schedule:

#### H. Annual Recertification Reminder Notices

Annual Recertification Reminder notices will be issued to each tenant by the AHA according to the following schedule:

##### **First Reminder Notice**

AHA will issue the First Reminder Notice at least 120 days prior to the tenant's recertification anniversary date.

##### **Second Reminder Notice** (If no response to First Notice)

AHA will issue the Second Reminder Notice at least 90 days prior to the tenant's recertification anniversary date.

##### **Third Reminder Notice** (If no response to First or Second Notices)

AHA will issue the Third and Final Reminder Notice at least 60 days prior to the tenant's recertification anniversary date. This notice will serve as a 60-day notice to terminate assistance and as a 60-day notice of rent increase to Market Rent.

##### **Termination Notice** (If no response to First, Second or Third Notices)

If the tenant still does not respond the AHA will issue a Termination Notice and raise the tenant's rent to the Market Rate and initiate eviction proceedings for violation of the Lease Requirements in accordance with HUD Handbook 4350.3 REV-1, Chapter 8.

If all required documentation has not been supplied to the AHA at the recertification interview, the family will be given ten (10) working days to submit the deficient information. Failure to supply the required documents within the specified time frame will result in the eviction of the family in 30 days for violating the Lease Requirements and 24 CFR Part 5, subpart B, failing to supply required information.

The notice of eviction will indicate that the family has violated the regulation specified and will offer the family an opportunity for a hearing in accordance with the Informal Hearing Procedures.

#### I. Completion of the Annual Reexamination

The family's Total Tenant Payment (TTP) and Housing Assistance Payment (HAP) will be calculated based upon the information provided and verified during the annual reexamination. However, the AHA may determine the TTP and HAP by disallowing certain deductions and or allowances that it could not substantiate through reasonable verification means. Any changes will be effective on the annual reexamination effective date except as provided under paragraph G of this chapter.

#### J. Action Following Re-Examination

If there is any change in tenant rent or utility allowance schedules for tenant paid utilities, the lease will be amended, or a new lease will be executed, or a Notice of Rent Adjustment will be issued. Failure to return the signed HUD 50059 Tenant Certification Form which the AHA requires to establish tenant's continuing eligibility for housing, will result in an automatic notice of eviction.

If it is determined that a family has an ineligible non-citizen household member, the family will be offered assistance on a pro-rated basis. Failure to accept pro-rated assistance will require the AHA to issue to the family a termination notice. If the family requests a deferral of termination, the AHA will honor their request (not to exceed 36 months).

## 16. INTERIM RECERTIFICATION REPORTING REQUIREMENTS

### A. Rent Decreases and Adjustments

Families must report all changes in family income, assets, size and composition when they occur. The AHA will conduct interim reexaminations between regularly scheduled annual reexaminations in accordance with HUD requirements and the provisions of this Plan. Effective upon the AHA HOTMA compliance date, interim reexaminations will be conducted by the AHA for the following:

1. All increases in unearned income greater than 10%
  - a. discretionary policy – AHA may require the family to report increases in earned income if the family has an interim for loss of income within the same recertification period.
  - b. discretionary policy – AHA may decline to conduct an interim for an increase of income if it is within 90 days of the annual recertification.
2. Decreases in income that are 10% or more of the family's annual adjusted income.
  - a. The family may choose to report loss of income that is less than 10% of the annual adjusted income.
  - b. In the event that the family reports a member is no longer in the unit, the AHA may conduct an interim for the loss of income regardless of that amount meeting the 10 % threshold.
  - c. AHA must verify all changes in household income (increases, decreases, earned and unearned) at the time the family reports a loss of income to determine that the amount is equal to 10% of the last reported annual adjusted income.

If it is discovered during the reexamination that the tenant has misrepresented the facts (upon which the rent is based) so that the rent the tenant is paying is less than the rent that he/she should have been charged, the AHA may apply an increase in rent retroactive to the first month following the month in which the misrepresentation occurred and/or evict the tenant in accordance with the Lease.

The Tenant is obligated to report any changes in income or family composition in accordance with the Immediate Reporting Requirement identified in this chapter and the terms and conditions of the tenant's Residential Lease. Failure to timely report a change in income is a material breach of the Lease.

### B. Immediate Reporting Requirement

Families must immediately notify the AHA of all reportable changes, as defined in this chapter. Immediate reporting means that the family, without notice, must contact the AHA to report any applicable change within fourteen (14) calendar days of the actual date of such change, except that any additions to the family, other than births, require prior approval by the AHA.

Failure on the part of the family to report applicable changes in ten (10) working days, which would have an increase in TTP, will result in the AHA's calculating a "retroactive rent" for the family based upon the

actual date of the changes. A retroactive rent will be determined by calculating the TTP that the family should have paid during the period that the changes were not reported and subtracting that total from the amount of TTP the family actually paid for the same time period. This retroactive rent amount may either be paid in one payment or by a repayment agreement in accordance with Chapter 19 of this Plan. If the AHA believes that any action or inaction under this paragraph is intentional, the AHA may begin eviction proceedings and initiate court action to recover monetary damages.

### C. Special Family Circumstances

If the family composition changes to the extent it breaks up, the AHA must determine the eligibility of remaining family members. A "Remaining family member" is defined as a family member of an assisted tenant family who remains in the unit when other members of the family have moved out. A minor is not considered to be a remaining member of the family unless he/she has been declared emancipated by the courts, has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)); or is homeless or is at risk of becoming homeless at age 16 or older. The factor to be considered in making this decision is based on the following:

- If a judicial decree is issued by the courts in a divorce or legal separation, the AHA will be bound by the court's determination as to which family member will continue to receive the program assistance.

### D. Incorrect Reporting

In any instance, if the AHA believes that a family has provided false, misleading or deliberately inaccurate information to the AHA, the AHA may conduct additional investigation to obtain reasonable evidence, and begin eviction proceedings with proper notice, and/or prosecute the family in accordance with the law. Where evidence of serious fraud exists, the AHA will refer all information to HUD's Office of Inspector General for further investigation.

### E. Effective Dates of Rent Adjustments

If the family rent is to increase:

- The increase generally will be effective on the first of the month following a 30-day notice to the family.
- If a family fails to report a change within the required time frames or fails to provide all required information within the required time frames, the increase will be applied retroactively to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement.

If the family rent is to decrease:

- If the tenant has complied with the interim reporting requirement and the tenant's rent is anticipated to decrease, rent decreases will be effective on the first day of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.
- AHA may apply rent decreases retroactively for circumstances in which families fail to report changes in a timely manner in the event of verified circumstances beyond the control of the family (example: hospitalization). A retroactive rent decrease may not be applied prior to the later of

either the first of the month following the date of the actual decrease in income, or the first of the month following the most recent previous income examination.

## 17. IMPLEMENTATION OF HOUSE RULE CHANGES

House rules are referred to in the lease as an attachment to the lease. It is important to recognize that house rules do not replace the lease or the lease terms however House Rules must be followed by the tenant.

House rules, if developed must not create a disparate impact on tenants based on race, color, national origin, religion, sex, disability, or familial status.

In addition, House Rules are developed and are related to:

1. The safety, care, and cleanliness of the building or the safety and comfort of the tenants.
2. Not discriminating against individuals based upon membership in protected class.
3. Be reasonable in nature.

The AHA will provide tenants with written notice 30 days prior to implementing new house rules or prior to implementing any changes to existing house rules.

## 19. HUD'S ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM

### A. Overview and Use of HUD's EIV System

The HUD EIV system is a web-based application which provides the AHA with employment, wage, unemployment compensation and Social Security benefit information for tenants participating in HUD's assisted housing programs. Information in EIV is derived from computer matching programs initiated by HUD with the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS), for all tenants with valid personal identifying information (name, date of birth (DOB), and Social Security number (SSN)) reported on the form HUD-50059. Information in the EIV system is used by the AHA to verify employment and income at the time of application processing and recertification activities which helps to reduce errors in subsidy payments.

Use of EIV is mandatory and AHA must use the EIV system in its entirety. There are two matches performed by EIV:

1. **Monthly match:** Entire eligible tenant base is matched with the new hires (W-4) data, and newly admitted tenants are matched with the wage and unemployment benefit data.
2. **Quarterly match:** The entire tenant base is matched with the new hires (W-4), wage and unemployment benefit data.

The new hires (W-4), wage and unemployment benefit data is loaded into EIV by the 20<sup>th</sup> day of each month and EIV retains the last 8 actions processed by HHS of the NDNH employment and income data for a tenant.

### B. Screening of Personal Identifiers

#### EIV Pre-screening

Prior to sending tenant information to SSA for validation of a tenant's personal identifiers (last name,

DOB and SSN), a pre-screening is conducted to identify tenants who are missing or have invalid personal identifiers. These tenants are not sent to SSA for the identity match until the personal identifier information has been corrected in TRACS. AHA will run a failed EIV prescreening report to determine if any tenants have failed the prescreening and may require correction to certain identifiers such date of birth, social security number, etc.

### SSA Identity Test

1. Tenants who pass the EIV pre-screening test are sent to SSA for verification of their personal identifiers against SSA records. Tenants whose personal identifiers do not match SSA's records cannot be matched against HHS' NDNH or SSA's records until the personal identifier information has been corrected in TRACS.
2. Tenants whose personal identifiers match SSA's records are matched against HHS' NDNH and SSA's records to obtain employment and income information.

### C. EIV Reports

See Appendix A: Mandatory and Discretionary Use of EIV

### EIV Summary Report

This report is a summary of information taken from the current, active and executed HUD 50059 certification form and the information contained in the TRACS file at the time of the income match. It also provides the Identity Verification Status for each household member.

The AHA will run and use this report at the time of annual or interim recertification to review and resolve the status of any household member(s) with a "failed" or "deceased" status. The AHA will retain this Summary Report in the tenant file as verification that all household social security numbers have been verified.

### EIV Income Report

The EIV Income report is used by AHA as a third-party source to verify a tenant's income during mandatory annual re-certifications of family income and composition. The income report provides employment and income information reported in the NDNH and SSA databases for all household members who passed the SSA identity test identifies household members who may be receiving multiple subsidies by displaying the following message:

"This member may be receiving multiple subsidies. See the Multiple Subsidy Report for details."

The EIV Income Report does not include other income the household may receive such as welfare benefits, most private pensions, child support, etc. Income from these sources will need to be verified by AHA through conventional third-party verification methods.

The AHA will use the Income Report identifying the NDNH employment, wage and unemployment income information in the EIV system as third-party verification of the tenant's employment and/or unemployment income and will confirm with the tenant that the employment and/or unemployment information in EIV is correct. If the tenant confirms that the employment and/or unemployment information in the EIV system is correct, the AHA will:

1. Print the Income Report and use the report as third-party verification of the tenant's employment and/or unemployment.

2. Request the tenant provide documentation, e.g., four current, consecutive check stubs, which will support his/her current income being received.
3. Use the tenant provided documentation for determining the tenant's annual income unless additional information is needed or the AHA has reason to reject the tenant provided documentation. In these instances, third party verification must be obtained from the income source.
4. Annualize the tenant's income using the current income projected forward for the next 12 months.
5. Make copies of any tenant provided documents for the tenant file and return the originals to the tenant.
6. Retain the Income Report and supporting documentation in the tenant file along with the applicable form HUD-50059.

In the event a tenant or household family member disagrees with the amount of income reported in EIV, the AHA will request and obtain independent third-party verification directly from the income source which will be used to complement the EIV income report when the following occurs:

1. The tenant is unable to provide acceptable and current employment and/or income documentation to support the wage and unemployment income amounts reported in EIV;
2. The tenant disputes the EIV income information;
3. There is an EIV income discrepancy reported at the time of recertification (annual or interim);
4. There is incomplete EIV employment or income data for a tenant and the AHA needs additional information. Examples of additional information include but are not limited to:
  - a. Effective date of income (i.e. employment, unemployment compensation or Social Security benefits).
  - b. For new employment: pay rate, number of hours worked per week, pay frequency, hire date (not required to be reported to state so it may not be in EIV), etc. (See Exhibit 9-6 for data elements that are optional for employers to report to the state.)
  - c. There is no EIV employment or income data for a tenant.

In these situations, the AHA must not use tenant-provided documentation even if generated from a third-party source.

When the AHA is unable to obtain third party verification directly from the source, (e.g., the third party does not respond), the tenant file will be documented to identify that third-party verification attempts were made by the AHA but such third-party verification was not available.

The AHA may accept self-declaration from the tenant only if third party verification cannot be verified by another acceptable verification method and the tenant file has been documented as such.

The AHA always has the discretion to obtain additional third-party verification of income or verification of other EIV data based on circumstances encountered during the recertification process.

Income information will not be available to AHA in EIV when processing new admissions. In these instances, and upon processing new admissions, AHA will run the EIV Income report within ninety (90) days after move-in and transmission of the move-in certification to HUD's TRACS system. The EIV system only contains employment and income information for tenants, therefore, the AHA must request third party verification from the income source for determining an applicant's income for eligibility and rent calculation purposes.



### EIV Income Discrepancy Report

The Income Discrepancy Report identifies households where there is a difference of \$2,400 or more annually in wages, unemployment compensation and/or Social Security benefit income reported by NDNH and SSA and the wages, unemployment compensation and/or Social Security benefit income reported in TRACS for the period of income used for the discrepancy analysis.

The report identifies tenants whose income may have been under- or over-reported. Negative numbers on the report represent potential tenant under reporting of income while a positive number represents a potential decrease in a tenant's income. In either case, the AHA must investigate all discrepancies identified to determine whether they are valid or not.

The AHA will print the EIV Income Discrepancy Report at the same time they print the Income Report and retain the Income Discrepancy Report along with detailed information on the resolution of the reported discrepancy in the tenant file. This includes information on resolution of the discrepancy regardless of whether the discrepancy was found to be valid or invalid.

In addition, the AHA will make sure the information in TRACS agrees with the information on the signed HUD-50059 certification form in the tenant file.

If it is determined that the information in TRACS differs from the information found on the tenant's current HUD-50059, the AHA will retransmit the current HUD-50059 to correct the TRACS database. This is important since the income discrepancies reported in the EIV system are determined by comparing the wage, unemployment and Social Security benefits income reported by NDNH and/or SSA with the wage, unemployment and Social Security benefits income reported by the household and transmitted to TRACS.

In addition to the three (3) EIV reports listed above used during the recertification process, the AHA will also run the following EIV report at frequencies not less than required by HUD.

### No Income Report

This report is a tool for the AHA to use to identify tenants who passed the identity match against SSA's records but have zero income represented in the TRACS system. The AHA will run and monitor the No Income Report for tenants who claim to have zero income.

### New Hires Report

This report identifies tenants who have started new jobs within the last six months. The information in this report is updated monthly in EIV, and the AHA must run this report at least quarterly to determine if any of their tenants have started new employment whereby the tenant has not reported a change in income to the AHA between recertifications and/or the new employment was not reported at the time of recertification.

When the AHA identifies tenants on this report they will contact the tenant regarding his/her new employment and confirm with the tenant that they have a new job and that the employment information in the EIV system is correct. If the tenant agrees that the employment information in the EIV system is correct, the AHA will request the tenant to provide verification documents, (e.g., four current, consecutive pay stubs, employment confirmation letter) specifying rate of pay, number of hours worked each week, pay frequency, etc., for use in determining the tenant's income or, if necessary, request third party verification from the employer.

If the tenant disputes the information in the EIV system, the AHA must obtain third party verification

directly from the employer. Upon receipt of the verification documents the AHA will process a recertification in accordance with HUD program requirements that includes the employment income. In addition, the AHA will retain a copy of the report in a master “New Hires Report” file along with notations as to the outcome of the contact with the tenant (e.g., J. Jones – interim recertification processed to include income from new employment). All correspondence with the tenant third party verifications will be retained in the tenant file.

#### Existing Tenant Search Report

The EIV Existing Tenant Search report will be run by AHA as a part of the applicant screening process, and in advance of an applicant family being offered housing by the AHA. This report will identify if the applicant family is receiving federal rental assistance or subsidy at another property or location and will require AHA to coordinate the applicant family’s move-in date with the move-out date at the vacating property or location to prevent any duplicate subsidy payments. This report will be retained along with the application and other screening results in the tenant file if the applicant is offered and accepts housing. In the event housing is not offered to an applicant family, an applicant family is denied housing or declines to accept housing that is offered, this report will be retained along with the application and all other screening results and applicant correspondence for a period of three (3) years.

#### Multiple Subsidy Report

This report identifies individuals who may be receiving multiple HUD rental subsidies. The AHA will run the Multiple Subsidy Report at least quarterly to identify any tenants who may be reported as receiving assistance at another location. The AHA will follow up with tenants identified on the report where the discrepancy was not identified and resolved at the time of recertification. In addition, the AHA will perform a search to determine if possible multiple subsidies exist and discuss with the tenant if the results of the search show that a tenant is being assisted at another location. The tenant will be given the opportunity to explain any circumstances relative to his/her being assisted at another location.

#### Identity Verification Report

There are three reports that are accessed from the Identity Verification Report link in EIV. The AHA will use the Failed EIV Pre-Screening and the Failed Verification Report (Failed the SSA Identity Test) reports monthly to clear up any invalid, discrepant or missing information in the TRACS database that was not identified and corrected at the time of recertification. There will not be any employment or income information in EIV for tenants who fail either the EIV Pre-Screening or SSA Identity Test, so it is essential that any discrepancies are corrected within 30 days from the date of the reports. The AHA will conduct third party verifications to obtain employment and income data for these tenants.

#### Failed Prescreening Report

This report identifies tenants who fail the EIV pre-screening test because of invalid or missing personal identifiers (last name, DOB or SSN). The tenants identified in this report will not be sent to SSA for the SSA identity test until the personal identifier information is corrected in TRACS. The AHA will run this report monthly to identify tenants that did not pass the pre-screening test and determine the reason(s) why they did not pass so that the errors can be corrected. The AHA will follow up with tenants identified on the report where discrepant personal identifiers were not corrected at the time of recertification. Prior to contacting the tenant, the AHA will confirm the accuracy of data entry in TRACS, (e.g., has a number been transposed when entering the SSN, etc.) and confirm with the affected tenant their SSN, last name, and/or DOB and obtain documentation from the tenant to verify any discrepant personal identifiers.

AHA will correct any discrepancies in TRACS so that the tenant will be included in the TRACS file provided to the EIV system for inclusion in the SSA identity test.

Copies of this report will be printed and retained in a master “Failed EIV Pre-screening Report” file. The report will be documented with actions taken to resolve invalid or discrepant personal identifiers.

**NOTE:** This report will include those persons who are exempt from the SSN disclosure and verification requirements. In these instances, the AHA will note on the copy of the report retained in the “Failed EIV Pre-Screening Report” master file that the tenant(s) is exempt from SSN requirements.

#### Failed Verification Report

This report identifies household members who failed the SSA identity test because their personal identifiers (last name, DOB or SSN) do not match SSA’s records, as well as identifies deceased household members. The AHA will use this report monthly to identify those tenants that did not pass the SSA identity verification test and research and document the reason(s) they did not pass so that the errors can be corrected. Prior to contacting the tenant, the AHA will confirm the accuracy of data entry in TRACS, (e.g., has a number been transposed when entering the SSN, etc.) and confirm with the affected tenant(s) their last name, SSN and/or DOB. The AHA will follow up with tenants identified on the report where discrepant personal identifiers were not corrected at the time of recertification and obtain verification or documentation to support the tenant’s personal identifiers and the accuracy of the form HUD-50059 and TRACS data to correct any discrepancies in TRACS so that the tenant will be included in the match against SSA and NDNH data. In addition, the AHA will encourage the tenant to contact SSA to correct any inaccurate data in their databases if the personal identifiers on the form HUD-50059 and in TRACS are accurate. The tenant can request SSA to correct his/her record by completing and submitting form SS-5, *Application for a Social Security Card*, and verifying documentation to the local SSA office.

The AHA will print and retain a copy of the report in the tenant file. The report must be documented with action taken to resolve invalid or discrepant personal identifiers.

#### Deceased Tenant Report

This report identifies tenants who are participating in one of HUD’s Multifamily Housing rental assistance programs who are reported by SSA as being deceased. The AHA runs this report at least quarterly to identify those tenants reported by SSA as being deceased. In the event the AHA identifies an existing tenant in the report the AHA will confirm, in writing, with the head of household, next of kin or contact person/entity provided by the tenant to determine whether or not the tenant is deceased.

If the person is deceased the AHA will update the household composition, household income and allowances (if applicable) on the form HUD-50059 and submit the updated HUD 50059 certification form to TRACS. In the case of a deceased single member of a household, the AHA will process a Move-out transaction using form HUD-50059-A. The effective date of the form HUD-50059-A will be retroactive to the earlier of 14 days after the tenant’s death or the date the unit was vacated. Any overpayment of subsidy that was paid on behalf of the deceased tenant must be repaid to HUD and any discrepancies must be corrected in the TRACS system within 30 days from the date of the report.

The AHA will encourage the tenant to contact the SSA to correct any inaccurate data in their databases if the person identified as being deceased in the SSA database is not deceased. The AHA will print and retain a copy of the report in a master “Deceased Tenant” file. The report will be documented with actions taken to resolve any discrepancies. All correspondence or action taken for a particular tenant will be retained in the tenant file.

## 20. TENANT REPAYMENT AGREEMENTS

Tenants are obligated to reimburse the AHA if they are charged less rent than required by HUD's rent formula due to underreporting or failure to report income. The tenant is required to reimburse the AHA for the difference between the rent that should have been paid and the rent that was charged.

Tenants can repay amounts due in a lump sum, by entering into a repayment agreement, or by a combination of both. The AHA provides, in certain instances, an opportunity for families who owe money to the AHA to enter into tenant repayment agreements and continue to participate in the Section 8 New Construction NSA program.

At the discretion of the AHA, and in accordance with this Section 8 New Construction NSA Tenant Selection Plan, the family may be offered an opportunity to enter into a repayment agreement to pay for amounts owed the AHA due to underreported or unreported income. The AHA will calculate the installment amounts and prescribe the terms of the repayment agreements in accordance with HUS Regulations.

Tenants who do not agree or fail to repay amounts due will be in non-compliance with their lease agreement and may be subject to termination of tenancy.

### A. Unreported or Misreported Income

When the AHA identifies cases where the family has erroneously reported their household income, or has not reported all of their household income, a determination will be made as to whether the family's action or inaction by the family appears to be deliberate, and if any Family Obligations have been violated. A repayment agreement may be offered if the family has not:

- Committed fraud or willfully misrepresented information;
- Violated any of the Family Obligations; or
- Previously breached a repayment agreement with the AHA in the past three years.

### B. Other Amounts Owed to AHA

A family may owe the AHA money for reasons other than overpayments from incorrect rental calculations and disbursements for special claims. Repayment agreements for other amounts owed may be offered to families by the AHA depending upon the origin of the outstanding debt and any rules governing the type of debt. The decision to offer a repayment agreement in this category will be made on an individual basis by the AHA.

### C. Repayment Agreement Policy

The repayment agreement will be specific, identifying the reason for the reimbursement, terms of the agreement, payment frequency and due date, installment or payment amount and other binding conditions structured by the AHA. A repayment agreement must be executed by the family's head of household within thirty (30) calendar days of the offer by the AHA, otherwise it will be considered a refusal by the family. The repayment agreement policy conforms to the following:

- Each installment will be due in advance without notice by the family. Payments will be made to the AHA's main office or address identified in the repayment agreement.
- The tenant's monthly payment must be what the tenant can afford to pay based on the family's income.

- The monthly payment plus the amount of the tenant's total tenant payment (TTP) at the time the repayment agreement is executed should not exceed 40 percent of the family's monthly adjusted income.
- A repayment agreement for a family will generally consist of a term of no longer than 24 months, however the tenant and the AHA must both agree on the terms of the repayment agreement. The tenant may wish to consult with HUD's Housing Counseling Agency in their area to assist them in working with the AHA to reach agreeable terms for the repayment agreement. See the Housing Counseling Agency website for a listing of agencies for each state at <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>
- Any breach of the terms or conditions of a repayment agreement will result in the eviction of the family
- If a family is offered a repayment agreement for money owed the AHA, and the family refuses, the entire amount will be due immediately.
- Failure by the family to pay AHA the agreed upon amounts according to the schedule identified in the repayment agreement will constitute default of the repayment agreement by the tenant and will be considered reason for termination of assistance and/or eviction of the family.
- Advance notice of a termination of program assistance under this paragraph and a right to a hearing will be provided to the family prior to discontinuance of assistance.

#### D. De minimis Errors

De minimis errors occur when the AHA determination of a family's income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (or \$360 in annual adjusted income).

As the AHA becomes aware of the existence of an income calculation error, it will correct the error(s) retroactive to the effective date of the action the error was made. Depending upon the family circumstances and when errors are detected, the AHA may take one of the following corrective actions to credit or repay the family.

- Repay the family the tenant portion overpayment
  - This may be performed if the family no longer resides in the same unit
- Apply the family a credit to reduce the amount of tenant rent until the amount of family overpayment has been met.
  - This may be performed if the family continues to reside in the same unit as when the overpayment was made.

Families will not be required to repay the AHA in instances where the AHA miscalculated income resulting in a family being undercharged for rent.

#### E. Prosecution for Fraud

If the AHA determines that the family has committed fraud after a repayment agreement has been executed, the AHA may begin eviction procedures. In all cases involving fraud, the AHA has the right to prosecute in accordance with applicable laws.

**APPENDIX A: MANDATORY AND DISCRETIONARY USE OF EIV**

The table below provides guidance on the frequency with which individual EIV reports must be utilized by AHA.

## Mandatory and Discretionary Use of EIV

Report Title	Report Description	Frequency of Use	PHAs/MFH Owners
Debts Owed to PHAs & Terminations	Allows users to access information concerning former tenants who left owing a debt to a PHA or who had their voucher terminated for cause.	At the time of processing an applicant family for admission, and to enter debt information or terminations for families who have ended program participation.	PHAs only Report does not exist in MFH EIV.
Deceased Tenants Report	Identifies tenants reported by Social Security Administration (SSA) as being deceased.	At least quarterly	PHAs/MFH Owners
Existing Tenant Search	Identifies applicants who may be receiving assistance at another Multifamily project or PIH location.	At the time of processing an applicant family for admission	PHAs/MFH Owners
Failed EIV Prescreening Report	Identifies tenants who have missing or invalid personal identifiers (last name, date of birth, SSN) in HIP/TRACS. These tenants will not be sent to SSA from EIV for the SSA identity test.	Monthly	PHAs/MFH Owners
Failed Verification Report (Failed	Identifies tenants whose personal identifiers (last name, date of birth, SSN) do not match the SSA database.	Monthly	PHAs/MFH Owners
SSA Identity Test)	*PHAs/MFH Owners that admit families using a self- certification of SSN must review the Failed SSN Verification Report monthly to identify and follow up on new issues.		
Identity Verification Report	Identifies tenants that failed SSA verification, and failed EIV pre-screening.	Monthly	PHAs/MFH Owners

Income Discrepancy Report for MFH Programs	Identifies households where there is an income discrepancy in the wage, unemployment, and SSA benefit information reported in EIV and wage, unemployment, and SSA benefit information reported in TRACS for the period of income used for discrepancy analysis. The report serves as a tool to alert MFH Owners that there may be a discrepancy in the income reported by the tenant during the period of income used for the discrepancy analysis.	Must be used at annual reexamination. MFH Owners may use the report at other intervals, in accordance with the MFH Owner's written EIV policies and procedures. MFH Owners <b>are not</b> required to use the report at annual reexamination if they used Safe Harbor verification to determine the family's income at the last reexamination.  *See note under Summary above about updates to the MFH Income Discrepancy Report.	MFH Owners
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## Annual Income Exclusions 24 CFR 5.609(b)

### Income Exclusions Table

Category	Exclusion	CFR	Description
Other	Federally Mandated Income Exclusions	24 CFR 5.609(b)(22)	Amounts that must be excluded by federal statute. HUD will publish a Federal Register notice that includes the qualifying benefits.
Assets	Imputed Income from Assets	24 CFR 5.609(b)(1)	Any imputed return on an asset when net family assets total \$50,000 (adjusted annually) or less and no actual income from the net family assets can be determined.
Non-recurring income	Non-recurring income	24 CFR 5.609(b)(24)	Income that will not be repeated in the coming year based on information provided by the family.
Self-employment	Gross Self-employment Income	24 CFR 5.609(b)(28)	Gross income received through self-employment or operation of a business
Dependents	Minors (children under the age of 18 years)	24 CFR 5.609(b)(3)	All earned income of all children under the age of 18, including foster children.
Dependents	Adoption assistance payments	24 CFR 5.609(b)(15)	Adoption assistance payments for a child in excess of the amount of the dependent deduction.
Students	Earned Income of Dependent Students	24 CFR 5.609(b)(14)	Earned income of dependent full-time students in excess of the amount of the dependent deduction.
Students	Title IV HEA Assistance	24 CFR 5.609(b)(9)(i)	Any assistance that Section 479B of the Higher Education Act (HEA) of 1965, as amended, requires to be excluded from a family's income.
Students	Other Student Financial Assistance	24 CFR 5.609(b)(9)(ii)	Student financial assistance, not excluded under the HEA, for actual covered costs of higher education.
Students	Educational Savings Account	24 CFR 5.609(b)(10)	Income and distributions from any Coverdell educational savings account or any qualified tuition program under IRS section 530 or any qualified tuition program under section 529.
Baby bonds	Baby bonds	24 CFR 5.609(b)(10)	Income earned by government contributions to, or distributions from, 'baby bond' accounts created, authorized or funded by federal, state or local government.
Foster children / adults	Payments for Foster Children / Adults	24 CFR 5.609(b)(4)	Payments received for the care of foster children or adults, including State kinship, guardianship care payments, or tribal kinship payments.
Foster children / adults	Income of foster children / adults	24 CFR 5.609(b)(8)	Income of a live-in aide, foster child, or foster adult as defined in 24 CFR 5.403 and 5.603.
Live-in Aide	Income of a Live-in Aide	24 CFR 5.609(b)(8)	Income of a live-in aide, foster child, or foster adult.
People with Disabilities	ABLE accounts	24 CFR 5.609(b)(22)	Will be included in federally mandated excluded amounts. Notice PIH 2019-09/H-2019-06 details when ABLE account income is excluded.
People with Disabilities	State Payments to Allow Individuals with Disabilities to Live at Home	24 CFR 5.609(b)(19)	Payment made by an authorized by a state Medicaid managed care system or other state agency to a family to enable a family member to live in the family's assisted unit.
People with Disabilities	Plan to Attain Self-Sufficiency (PASS)	24 CFR 5.609(b)(12)(i)	Amounts set aside for use under a Plan to Attain Self-Sufficiency (PASS).
People with Disabilities	Reimbursements for Health and Medical Care Expenses	24 CFR 5.609(b)(6)	Amounts for, or in reimbursement of, health and medical care expenses for any family member.

(continued)

## Income and Income Exclusions Resource Sheet

Category	Exclusion	CFR	Description
Trusts	Trust distributions	24 CFR 5.609(b)(2)	Any distributions of a trust's principal are excluded. PHAs and owners must count any distributions of income from an irrevocable trust or a trust not under the control of the family (e.g., distributions of earned interest) as income to the family with the expectation of distributions used to pay the health and medical care expenses of a minor.
Insurance	Insurance payments and settlements for personal or property loss	24 CFR 5.609(b)(5)	Insurance payments and settlements for personal or property loss including, but not limited to: payments through health insurance, motor vehicle insurance, and workers' compensation.
Retirement	Retirement plan	24 CFR 5.609(b)(26)	Income received from any account under an IRS-recognized retirement plan. However, periodic payments are income at the time of receipt.
Military	Hostile fire special payment	24 CFR 5.609(b)(11)	The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
Veterans	Veterans aid and attendance payments	24 CFR 5.609(b)(17)	Payments related to aid and attendance for veterans under 38 U.S.C. 1521.
Lawsuits	Lawsuit Settlements	24 CFR 5.609(b)(7)	Amounts recovered in a civil action or settlement based on malpractice, negligence and other breach of duty claim resulting in a family member becoming disabled.
Lawsuits	Reparations for Persecution	24 CFR 5.609(b)(13)	Reparation payments paid by a foreign government for claims by people persecuted during the Nazi era.
Lawsuits	Tribal Claims Payments	24 CFR 5.609(b)(21)	Payments received by tribal members from claims relating to the mismanagement of assets held in trust by the United States.
Lawsuits	Lawsuits related to civil rights	24 CFR 5.609(b)(25)	Civil rights settlements or judgments, including settlements or judgments for back pay.
Reimbursements	Reimbursements from publicly assisted programs	24 CFR 5.609(b)(12)(i)	Amounts received by a participant in other publicly assisted programs for or in reimbursement of expenses to allow program participation (e.g., special equipment, clothing, transportation, child care, etc.).
Resident Services Stipend	Resident Services Stipend	24 CFR 5.609(b)(12)(iii)	Resident service stipends of \$200 or less per month for performing a part-time service for the PHA that enhances the quality of life in the development.
Employment training programs	Employment training programs	24 CFR 5.609(b)(12)(iv)	Incremental earnings and benefits from training programs HUD and qualifying employment training programs and training of a family member as resident management staff.
FSS	Family Self Sufficiency Account	24 CFR 5.609(b)(27)	Income earned on amounts placed in a family's FSS account.
Housing gap payments	Housing "gap" payments	24 CFR 5.609(b)(23)	Replacement housing "gap" payments to offset increased rent and utility costs to families displaced from one federally subsidized housing unit and another.
Benefits	Deferred Supplemental Security Income, SS income and benefits, or VA disability benefits	24 CFR 5.609(b)(16)	Deferred periodic amounts from: SSI, Supplemental Security Income and benefits or VA disability benefits that are received in a lump sum or prospective monthly amounts.
Property tax rebates	Property Tax Rebates	24 CFR 5.609(b)(18)	Refunds or rebates under state or local law for property taxes paid on the dwelling unit.
Loans	Loan Proceeds	24 CFR 5.609(b)(20)	The net amount disbursed by a lender to a borrower or a third party (e.g., educational institution or car dealership).

## Assets, Asset Exclusions, and Limitation on Assets Resource Sheet

### Excluded assets 25 CFR 5.603(b) "Net Family Assets" Para. (3) and (4)

The following assets are excluded under HOTMA. If the family owns an excluded asset, its value does not count toward the restriction due to net family assets. Most of these exclusions are new.

Category	Excluded Asset	Example(s)	Notes
Personal property	Necessary items of personal property	Medical devices, vehicle for commute	Determining what is a "necessary item" for personal property is a highly fact-specific determination. Additional guidance is forthcoming from HUD.
Personal property	Non-necessary items of personal property if the combined total value does not exceed \$50,000*	Vintage baseball cards, recreational boat, coin collection, art so long as the total value is under the limit	This matches the value of assets that can be self-certified by the family.
Savings account	Retirement account recognized by IRS	IRA, 401(k), 401(b) and retirement plans for self-employed individuals	
Real property	Real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located	Property subject to a lawsuit may be legally restricted from sale.	Such property does not count against the dollar amount limit or the real property limitation
Cash	Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member, for an incident resulting in a disability	A drunk driver injures a family member, who then has a disability. The family sues, and the driver's insurance pays the family.	
Savings account	The value of certain education or disability support savings accounts	Under Internal Revenue Code sections 529, 529A, 530, "baby bond" accounts	Coverdell accounts, tuition programs, any "baby bond" account created, authorized, or funded by Federal, state, or local government
Real property	Interest in Indian trust land	Family has interest in land held in trust by Bureau of Indian Affairs	Existing exclusion
Real property	Equity in a manufactured home where the family receives assistance under 24 CFR 982	HCV Manufactured Home Space Rental participants	
Real property	Equity in property where the family receives assistance under 24 CFR 982	HCV homeownership participant	For real property other than manufactured homes
Savings account	Family Self-Sufficiency (FSS) accounts		The family does not have access to FSS funds during their participation in the program. Also excluded from income.
Cash	Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family	Earned Income Tax Credits (EITC)	
Trust Funds	Trust that is not revocable by, or under the control of, any member of the family or household	Non-revocable trust fund; trust fund revocable once minor child reaches age 21	As long as a trust meets this definition, it is not an asset of the family