

# ACOP Development Guide



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## CHAPTER 5: REEXAMINATIONS AND CONTINUED OCCUPANCY



This document is part of the Admissions and Continued Occupancy Policy (ACOP) Development Guide. The full ACOP Guide includes nine chapters on different topics addressed in a typical ACOP.

To see the full ACOP Guide go to:

<https://www.hudexchange.info/programs/public-housing/admissions-and-continued-occupancy-policy-toolkit/>

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## CHAPTER 5: REEXAMINATIONS AND CONTINUED OCCUPANCY

### OVERVIEW

The purpose of this chapter is to provide Public Housing Agencies (PHAs) with guidance for drafting policies for reexaminations and determining continued occupancy for current tenants of public housing. Housing agencies must conduct reexaminations in accordance with 24 CFR § 960.257 to determine a household's eligibility for continued occupancy and establish policies on how annual and interim reexaminations are conducted.

Depending on the type of rent the family pays, either flat rent or income-based rent, there are slightly different processes and requirements for reviewing family income. Family composition is reviewed annually regardless of whether families are paying income-based or flat rent. PHAs also need to establish procedures for processing interim reexaminations, including setting timeframes, and detailing the conditions under which a family needs to report on any changes in income or composition.

HOTMA will introduce significant changes to reexaminations when the Final Rule becomes effective in 2024. Most notably, the criteria for conducting interim reexaminations will change, and annual reexaminations will begin to use prior-year income with adjustments as needed to reflect current income.

When drafting reexamination policies, PHAs must consider the distinction between **Mandatory** (non-Discretionary) and **Discretionary** policies.



#### **Mandatory Policies**

Mandatory policies must comply with HUD and other regulations and must be included in the ACOP. Mandatory policies are those prescribed in statute and regulation that must be part of the ACOP and for which PHAs have no flexibility.



#### **Discretionary Policies**

Discretionary policies are areas where the PHA has flexibility to define policies, typically within a given set of parameters. They may be unique to the PHA and based on industry best practices. These policies must still comply with Federal, State and local laws as well as HUD guidance.

## TOPICS COVERED IN THIS CHAPTER

The following are key components of a typical ACOP chapter on Reexaminations that are described in this chapter.

- 5.1.** Eligibility for Continued Occupancy
- 5.2.** The Reexamination Process
- 5.3.** Scheduling and Notification
- 5.4.** Conducting Reexaminations
- 5.5.** Rent Changes and Other Adjustments to Tenant Status
- 5.6.** Interim Reexaminations
- 5.7.** Streamlined Income Determination for Fixed Income Sources
- 5.8.** Use of the Enterprise Income Verification (EIV) System
- 5.9.** Over-Income Determination

### Learn More About Reexaminations in the Public Housing Occupancy Guidebook

This chapter outlines the U.S. Department of Housing and Urban Development's (HUD) requirements for reexamining income and family composition for families in the Public Housing program and provides guidance to Public Housing Agencies (PHAs) in conducting reexaminations.



[REEXAMINATIONS](#)

## 5.1 ELIGIBILITY FOR CONTINUED OCCUPANCY



### Helpful Tips

- ✓ The initial eligibility requirements, or qualifications for admission, are usually in a separate chapter of the ACOP. It is useful to reference those requirements or restate them in this section.
- ✓ This part of the ACOP chapter generally discusses the threshold requirements for continued occupancy. These include income eligibility, rules regarding citizenship, Social Security numbers, and compliance with the Community Service and Self-Sufficiency requirement.



### Mandatory Policies

- PHAs are required to conduct annual reexaminations to determine if the family members are still eligible to participate in the public housing program.
- To maintain eligibility, the mandatory considerations include qualifying as a family (24 CFR § 5.403 and 24 CFR § 960.201), staying compliant with the lease (24 CFR § 966.4), providing Social Security numbers (24 CFR § 5.216), complying with citizenship or eligible non-citizen status standards (24 CFR § 5.500) and complying with the Community Service and Self-Sufficiency Requirement (24 CFR § 960.603), unless exempt.



### Discretionary Policy Considerations

- Beyond the mandatory eligibility criteria, PHAs can add additional criteria for continued occupancy. For example, some PHAs may choose to structure the CSSR requirement to allow residents to complete the 96 hour per year requirement in the aggregate as opposed to 8 hours per month.

## ***Sample ACOP Language***

### **ELIGIBILITY FOR CONTINUED OCCUPANCY**

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

1. Qualify as a family as defined in the “Eligibility, Screening and Verification” chapter of this ACOP. (Note: For purposes of continued occupancy, remaining family members qualify as a family so long as at least one of them is of legal age to execute a lease. Remaining family members can also include court-recognized emancipated minors under the age of 18.)
2. Comply fully with the family obligations and responsibilities as described in the dwelling lease. **USA HOUSING AGENCY** cannot refuse to renew resident leases except for failure to comply with Community Service and Self Sufficiency requirements. Leases can only be terminated for serious or repeated violation of the material terms of the lease.
3. Provide Social Security numbers for all family members (or have an extension for new members aged 6 and under) or have certifications on file indicating they have no Social Security number.
4. Qualify as U.S. citizens, have eligible non-citizen status, or are paying pro-rated rent (24 CFR § 5.520).
5. Comply with the **USA HOUSING AGENCY**’s 96 hours per year community service and self-sufficiency requirement, unless determined to be exempt.

## 5.2. THE REEXAMINATION PROCESS



### Helpful Tips

- ✓ The annual reexamination helps PHAs determine the continued eligibility of the family, the required unit size, and the appropriate adjustments in the rent after consultation with the family.
- ✓ When it becomes effective, HOTMA will require that at annual reexaminations of income, PHAs must determine the income of the family for the previous 12-month period, except where the PHA uses a streamlined income determination. In determining the family income, the PHA must take into consideration interim reexaminations during the previous 12-month period and make adjustments to reflect current income if there was a change in income during the previous 12-month period. At admission and during interim reexaminations, PHAs will continue to use a current-year income standard.



### Mandatory Policies

- For families paying income-based rent, PHAs must complete each family's reexamination within a year (12 months) of the previous annual reexamination or new admission (24 CFR § 960.257(a)).
- For families that pay flat rent, PHAs must conduct a reexamination of income at least once every 3 years and reexamination of family composition annually (24 CFR § 960.253(f)(1) and 24 CFR § 960.257(a)(1)).
- PHAs must make the interim reexamination within a reasonable time after the family request. It is important to define "reasonable time" in the ACOP. A reasonable time may vary based on the amount of time it takes to verify information, but generally should not be longer than 30 days after changes in income are reported. The PHA must adopt policies prescribing when and under what conditions the family must report a change in family income or composition (24 CFR § 960.257(b)(2)). (Note: Under the HOTMA final rule, PHAs are not required to conduct an interim reexamination for a decrease of less than 10 percent of adjusted annual income in most circumstances.)



### Discretionary Policy Considerations

- PHAs have the discretion to determine when and under what conditions the PHA will require an interim reexamination (24 CFR § 960.257(b)(2) and 24 CFR § 960.257(d)). (Note: Under the HOTMA final rule, interim reexaminations will generally only be conducted if a family's adjusted annual income has changed by 10 percent or more.)
- Some PHAs may require families to report interim changes in family income or family circumstances. PHAs may set a threshold above which families are required to report. For example, they may require families to report any changes in total tenant income that exceed \$200 per month or \$2,400 per year. In this sample ACOP language, the PHA requires families to report increases in income that exceed \$200 per month or \$2,400 per year and any changes in family composition that occur between annual reexaminations.

## ***Sample ACOP Language***

### **FREQUENCY OF REEXAMINATION**

#### **Annual Reexamination for Income-Based Rent**

**USA HOUSING AGENCY** will conduct a reexamination of income and qualifications for continued occupancy annually based on the anniversary date of the tenant's admission. The anniversary date is the effective date of the family's admission. If the family transfers to a new unit, the **USA HOUSING AGENCY** will perform a new annual reexamination, and the anniversary date will be changed to align with the effective date of the transfer.

If the family transfers to a new unit, the **USA HOUSING AGENCY** will perform a new annual reexamination, and the anniversary date will be changed to align with the effective date of the transfer.

#### **Reexamination for Flat Rent**

The **USA HOUSING AGENCY** will conduct a reexamination of family composition annually based the tenant's anniversary date. For families paying flat rents, the **USA HOUSING AGENCY** will conduct a full reexamination of family income once every three (3) years. In conducting full reexaminations for families paying flat rents, the **USA HOUSING AGENCY** will follow the policies used for the annual reexamination of families paying income-based rent.

#### **Interim Reexamination**

Interim reexaminations are conducted because of changes in family income, family composition, or circumstances impacting adjusted annual income that occur between reexaminations. All families, regardless of paying income-based rent or flat rent, may report all changes in family and household composition that occur between annual reexaminations. Families must request approval for all additions to family and household composition subject to established eligibility policies.

**USA HOUSING AGENCY** will make subsidy adjustments for all income decreases of any amount, or increases in excess of \$200 per month or \$2,400 per year. The **USA HOUSING AGENCY** will conduct interim reexaminations to account for any changes in income and changes to household composition that occur between annual reexaminations in accordance with other sections of this ACOP.



## 5.3. SCHEDULING AND NOTIFICATION



### Helpful Tips

- ✓ Develop a notification letter or other means of correspondence with deadlines included to ensure annual reexaminations are complete within 12 months of the tenant anniversary date and in time to issue a 30-day rent change notice, if applicable.
- ✓ It is a best practice for PHAs to maintain internal electronic progress logs or reports in managing the on-time completion of the reexamination process.
- ✓ PHAs can determine how far in advance they want to notify residents of their upcoming reexamination date. This could be 120, 90, or 60 days prior to the tenant's anniversary date based on number of families and workloads. A best practice is generally to build in a 120 day-notification period before the scheduled reexamination date. The goal is to give families time to gather the required information, submit it, and then allow time for PHA staff to verify materials and accommodate any needs to reschedule.
- ✓ Provide tenants with clear instructions on how to reschedule missed interviews, request a virtual interview, and or complete a mail-in reexamination. This can be included in the reexamination packet or information that is shared with the family.



### Mandatory Policies

- HUD requires that the effective date of the reexamination for a family paying an income-based rent occur no more than 12 months after the previous annual reexamination or new admission effective date (24 CFR § 960.257(a)).
- The ACOP must reference and conform with the PHA's Reasonable Accommodations Policy. PHAs must provide reasonable accommodations for tenants with disabilities who need assistance in completing the reexamination process. This assistance can include home visits, physical building/office modifications, and reexamination documents in braille or use of sign-language interpreters, for example.



### Discretionary Policy Considerations

- PHAs have discretion when determining when they will complete annual reexaminations. PHAs typically align a family's annual reexamination effective date with the anniversary of their admission into the program or their last interim reexamination.
- HUD does not require that PHAs conduct in-person interviews as a part of the annual reexamination process. PHAs may choose one or more methods for conducting reexaminations including in-person, via mail, online, by phone and other methods. For example, some PHAs choose to complete some or all reexaminations via mail, while others request that all tenants appear in person if feasible, absent a reasonable accommodation.

### ***Sample ACOP Language***

#### **SCHEDULING AND NOTIFICATION**

Generally, the **USA HOUSING AGENCY** will schedule annual reexaminations that will align effective dates with the tenant's admission date. Generally, the reexamination interview date will be scheduled at least 60 days prior to the tenant's anniversary date.

Notification of annual reexamination interviews will be sent 120 days prior to the tenant's anniversary date by first-class mail, email, or other forms of notification and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the **USA HOUSING AGENCY** to request a reasonable accommodation. The **USA HOUSING AGENCY** is required to provide reasonable accommodations to persons with disabilities. A reasonable accommodation is a modification or change the **USA HOUSING AGENCY** can make to its units, buildings, policies or procedures that will assist an otherwise qualified applicant or resident with a disability to take full advantage of and use **USA HOUSING AGENCY** programs (24 CFR § 8.20).

**USA HOUSING AGENCY** will send subsequent 90, 60, and 30-day notices by first-class mail, email, or other forms of notification to remind the tenant of the scheduled reexamination date and include a reminder to have all required documents submitted prior to the reexamination interview.

The **USA HOUSING AGENCY** has discretion to hold in-person or virtual interviews. If the head of household, spouse or, co-head of household is unable to attend a scheduled interview, the family should contact the **USA HOUSING AGENCY** in advance of the interview to schedule a new appointment.

If a family does not complete the reexamination process, the family will be in violation of their lease and the tenancy will be terminated and the lease will not be renewed in accordance with the policies established in the "Lease Requirements" section of the ACOP.



## 5.4. CONDUCTING REEXAMINATIONS



### Helpful Tips

- ✓ Set deadlines for documents submission to ensure the reexamination and rent notification process is complete before the effective date. Generally, it is a best practice to have families submit their verifications at least 60 days before the anniversary date, so there is time to provide a 30-day Rent Change Notice if needed.
- ✓ If families do not submit their documents, it is a best practice for PHAs to send a notice that lists the missing documents and explain the PHA policy for non-submission.
- ✓ If families do not have the documents for Level 4 verifications and/or it is a burden to get them, the PHA needs to request written verification from third parties directly (Level 3). If necessary, there are two other verification levels, including a tenant declaration from the family.
- ✓ Follow the verification hierarchy before seeking to impose any penalties on families for non-submission of documents.



### Mandatory Policies

- As part of an annual reexamination, PHAs are required to complete two primary tasks:
  - Require that the family supply any information requested to determine family income and composition (24 CFR § 960.259(a)(2)). The information must allow the PHA to verify household income, assets, deductions, expenses, and family composition. This also includes documentation to comply with the Community Service and Self-Sufficiency Requirement.
  - All adult household members must sign the Form HUD-9886, Authorization for the Release of Information/Privacy Act Notice and all other consent forms (24 CFR § 5.230(b); 24 CFR § 960.259(b)).

- The ACOP must clearly state that written third-party verification documents, also known as “Level 4 verifications,” must be dated within the 60-day period preceding the reexamination or the date the PHA requested the documentation (Notice PIH 2017-12). Level 4 verification requires an original or authentic document generated by a third-party source dated either within the 60-day period preceding the reexamination or PHA request date. Remember, there are two levels that precede Level 4 and written documentation may not even be needed for those



### Discretionary Policy Considerations

- It is a best practice to include timeframes about the timeliness of supporting documentation and how current it should be. For example, the information on pay stubs will be used to help calculate rent and should be as current as possible. For example, a PHA may ask families to only submit supporting documents that are no more than 120 days old.

## ***Sample ACOP Language***

### **CONDUCTING REEXAMINATIONS**

Tenants will be asked to submit all required information as described in the reexamination notice. The required information will include a signed Authorization for the Release of Information/Privacy Act Notice (Form HUD-9886), and any other forms required by the **USA HOUSING AGENCY** as well as supporting documentation related to the family's income, expenses, and family composition.

Supporting documents to verify income, assets, and other financial information cannot be more than 120 days old. **USA HOUSING AGENCY** will follow the EIV verification hierarchy to verify and calculate income, assets, deductions, expenses, and household characteristics. **USA HOUSING AGENCY** will follow the hierarchy and obtain verification documents as required.

There are some documents in the hierarchy that require the family to obtain verification. Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the tenant is unable to obtain the information or materials within the required time frame, the tenant may request an extension, which shall not be unreasonably denied by **USA HOUSING AGENCY**.

### **Annual Community Service Requirements Reporting**

For families who include nonexempt individuals, the **USA HOUSING AGENCY** must determine compliance with community service requirements once each 12 months (24 CFR § 960.257(a)(3)). The **USA HOUSING AGENCY** will also determine any changes to the exempt or non-exempt status of family members during the reexamination. Exempt or non-exempt status will be based on the criteria included in the ACOP Chapter titled "Community Service and Self-Sufficiency Requirements."

### **All non-exempt adult, 18 years or older, public housing household members must satisfy the following requirements:**

- Perform a total of eight (8) hours per month of community service (not including political activities) within the community in which that adult resides. The community service hours given can be a combination of volunteer activities; or
- Participate in an economic self-sufficiency program for eight (8) hours per month; or
- Perform eight (8) hours per month of combined activities (community service and economic self sufficiency programs).
- Fewer than eight (8) hours may be earned each month, but a total of ninety-six (96) hours must be completed before the resident's next annual reexamination.

## 5.5. RENT CHANGES AND OTHER ADJUSTMENTS TO TENANT STATUS



### **Helpful Tips**

- ✓ Design a process and timeline that ensure reexaminations are completed with enough time to send the Rent Change Notice within 30 days of the change effective date.
- ✓ It is a best practice for PHAs to conduct a quality control review on all tasks related to the reexamination process to ensure that all tenant documents and information have been verified and income/rent calculations are correct.



### **Mandatory Policies**

- PHAs are required to provide Rent Change notices to tenants. The PHA must give tenants written notice stating any change in the amount of tenant rent, and when the change is effective (24 CFR § 966.4(b)(1)(ii)).
- Once a year, PHAs must give each family the opportunity to choose between a flat rent or income-based rent, the two methods for determining tenant rent (24 CFR § 960.253(a)(1)). PHAs must offer each family the rent choice at the time of annual reexaminations (24 CFR § 960.253(f)). The PHA must also provide sufficient information for the family to make an informed choice, including the dollar amounts of tenant rent for each option.



### **Discretionary Policy Considerations**

- PHAs have discretion about whether or not to offer repayment agreements. If PHAs do offer agreements, they have discretion to design the parameters and conditions for repayment.

### ***Sample ACOP Language***

#### **RENT CHANGES AND OTHER ADJUSTMENTS TO TENANT STATUS**

The Notice of Rent Change will include the current rent, the new rent, the date when the new rent takes effect, the reason for the rent change, and information regarding the resident's right to request an informal hearing if they disagree with the new rent (24 CFR § 966.4(c)(4)).

In general, an increase in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance of any rent changes or adjustments.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If the family causes a delay in processing the annual reexamination, increases in the tenant rent will be applied retroactively, to the effective date that coincides with the tenant's anniversary date. The family will be responsible for any underpaid rent and may be offered a repayment agreement.

A decrease in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If the family causes a delay in processing the annual reexamination, decreases in the tenant rent will be applied prospectively, from the first day of the month following completion of the reexamination.

If a change in the unit size is required, the resident will be placed on a transfer waiting list in accordance with the established policy transfers as described in the Transfers chapter of the ACOP and moved to an appropriate unit when one becomes available (24 CFR § 966.4(c)(3)). Failure by a resident to comply with a mandatory administrative transfer is cause for tenancy to be terminated and the lease to not be renewed.

## 5.6. INTERIM REEXAMINATIONS



### Helpful Tips

- ✓ Interim reexaminations are conducted because of changes in family income, family composition, or circumstances impacting adjusted annual income that occur between reexaminations. The purpose of an interim reexamination is to determine the continued eligibility of the family and adjust the rent, if necessary.
- ✓ It is considered a best practice to require families to report any changes in income and/or family composition within 10 business days of the change. After receiving the information, the PHA will set a reasonable timeframe in which to approve family and household additions, conduct the interim reexamination, make rent adjustments, and then send a 30-day rent change notice.
- ✓ Under the HOTMA final rule, interim reexaminations will generally only be conducted if a family's adjusted annual income has changed by 10 percent or more, unless the PHA has adopted a policy to conduct interim reexaminations for decreases less than 10 percent.



### Mandatory Policies

- PHAs are required to establish a policy about interims that includes when and under what conditions tenants must report a change in family income and/or composition (24 CFR § 960.257(b)(2)).



### Discretionary Policy Considerations

- For zero income households, PHAs have discretion pertaining to the frequency and method in which they verify a household's income when it is reported that there is no income. PHAs may consider a combination of self-certification forms, in-person updates, a form with a series of questions about expenses, or regular interim reexaminations.
- PHAs have discretion about when and how new family members are added to the lease, as long as the individuals meet eligibility criteria.
- PHAs have the discretion to determine when and under what conditions the PHA will require an interim reexamination. However, the interim reexamination policies must be detailed in the ACOP and in the annual PHA Plan as necessary (24 CFR § 960.257(b)(2)).
- A family may request, and the PHA must process within a reasonable time of the request, an interim reexamination of family income or composition at any time due to changes since the last reexamination (24 CFR § 960.257(b)(1) and (2)). "A reasonable time" may vary based on the amount of time it takes to verify information, but generally should not be longer than 30 days after changes in income are reported. (Note: Under the HOTMA final rule, PHAs are generally not required to conduct an interim reexamination for a decrease of less than 10 percent of adjusted annual income. They may adopt policies to conduct interim reexaminations for smaller changes.)
- PHAs should develop policies to determine how tenants report changes and what documentation is required to process the income and/or family composition change.
- PHAs may set a threshold above which families are required to report changes in family income. For example, they may require families paying income-based rent to report any changes that occur between annual reexaminations in total tenant income that exceed \$200 per month or \$2,400 per year.

## ***Sample ACOP Language***

### **INTERIM CHANGES AFFECTING CONTINUED OCCUPANCY**

**USA HOUSING AGENCY** requires tenants on income-based rent to report all changes in family circumstances that may affect rent and unit size that occur between annual reexaminations within 10 business days of the change. In addition, a tenant may request an interim determination due to changes in family income or composition. Once all documentation is received from the tenant validating the reason for an interim reexamination, the **USA HOUSING AGENCY** will complete the process within 30 days.

At the completion of an Interim Reexamination, if a rent increase is required, **USA HOUSING AGENCY** will send the tenant a written notice 30 days before rent or unit size changes take effect. If a change in unit size is required, the **USA HOUSING AGENCY** will relocate the tenant to an appropriately-sized unit upon availability.

### **Departure of Family or Household Members**

If a family member ceases to reside in the unit, the family must inform the **USA HOUSING AGENCY** within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the **USA HOUSING AGENCY** within 10 business days.

### **Death or Permanent Departure of Head of Household**

If the head of household dies or permanently leaves the unit for any reason, any remaining family members may continue to occupy the unit if there is at least one family member (not a live-in-aide or a foster child or adult) of legal age who is a citizen or eligible non-citizen and has capacity to execute the lease. The family must inform the **USA HOUSING AGENCY** of these changes within 10 business days.

### **Remaining Minor Family Members After Death or Permanent Departure of Head of Household**

If the head of household dies or permanently leaves the unit, the **USA HOUSING AGENCY** may permit a temporary adult guardian currently not on the lease to reside in the unit until a court-appointed guardian is established for the remaining minor family members. The **USA HOUSING AGENCY** will first consider whether there are any remaining family members capable of executing the lease before permitting an individual not currently on the lease to assume the role of head of household and execute the lease.

After court-appointed guardianship is established, the **USA HOUSING AGENCY** may add the guardian as the new head of household, provided they meet the **USA HOUSING AGENCY**'s eligibility criteria. This would usually occur when the only remaining family members in the unit are minors, who otherwise would have to leave the unit.

The new head of household will be held responsible for rent arrearages, unless the arrearage occurred before the new head of household turned age 18.



### ***Sample ACOP Language***

#### **CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

All tenants, whether they pay income-based or flat rent, must report all changes in family and household composition that occur between scheduled reexaminations.

The **USA HOUSING AGENCY** will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

If the **USA HOUSING AGENCY** determines that an individual does not meet the **USA HOUSING AGENCY**'s eligibility criteria or provide sufficient documentation to make a determination, the **USA HOUSING AGENCY** will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial. If the family would like to dispute the denial, the household can follow the agency's Grievance Procedure.

The **USA HOUSING AGENCY** will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

#### **CHANGES IN INCOME OR EXPENSES FOR INCOME-BASED RENT HOUSEHOLDS**

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses under this section.

The **USA HOUSING AGENCY** will conduct interim reexaminations in each of the following instances:

- If the start of a family's Earned Income Disallowance (EID) does not coincide with their annual reexamination, the **USA HOUSING AGENCY** will conduct an interim reexamination to adjust the exclusion with any changes in income at the conclusion of the second 12-month exclusion period (50% Phase-in period).
- If the family has reported zero income, the **USA HOUSING AGENCY** will conduct an interim reexamination at least every 3 months as long as the family continues to report that they have no income.
- At the time of the annual reexamination, if it is not feasible to anticipate a level of income for the next 12 months (e.g., seasonal or cyclic income), **USA HOUSING AGENCY** will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the **USA HOUSING AGENCY** will conduct an interim reexamination.

The **USA HOUSING AGENCY** may conduct an interim reexamination at any time in order to correct an error in a previous reexamination or to investigate a tenant fraud complaint.

## 5.7. STREAMLINED INCOME DETERMINATION FOR FIXED INCOME SOURCES



### Helpful Tips

- ✓ PHAs may choose whether to implement streamlined income determinations for families with fixed incomes.
- ✓ If PHAs choose to implement streamline income determinations for families with fixed incomes, they have two options. First, the Streamlined Income Determination for Families on Fixed Sources of Income can apply to any family member with fixed income sources. Second, there is a Streamlined Income Determination for Families with 90% or More Fixed Income Sources that applies to fixed income sources where 90% or more of the household income comes from fixed sources. In both cases, the PHA has discretion to adopt either or both policies, or the PHA can opt to not use these flexibilities.



### Mandatory Policies

- If PHAs choose to implement the streamlined method of income determination for families on fixed sources of income, they must first adopt this provision in the ACOP and after the initial year of implementation, fully reverify and recalculate all income every three years. Non-fixed sources of income remain subject to annual third-party verification (24 CFR § 960.257(c)(3)).
- In both scenarios, third party verification of deductions and assets is required annually.



### Discretionary Policy Considerations

- PHAs can decide to adopt either streamlined income determination approach or not.
- If PHAs choose to adopt the streamlined method for families with 90% or more fixed income sources, they do not have to do annual reexamination of all sources of a family's income. Instead, PHAs must apply the appropriate cost of living adjustment (COLA) to fixed sources of income. Under this streamlining option, all income sources must be fully reverified and recalculated every three years (24 CFR § 960.257(c)(5)).
- If PHAs choose to adopt the streamlined method of income determination for families on fixed sources of income, they do not have to conduct annual reexaminations for fixed sources of income and instead apply a cost-of-living (COLA) or current rate of interest to the previously verified or adjusted income (24 CFR § 960.257(c)(3)).
- If PHAs choose to adopt the streamlined method for families with 90% or more fixed income sources, they have the discretion to reverify and adjust non-fixed income sources (24 CFR § 960.257(c)(3)(i)).

### ***Sample ACOP Language***

#### **STREAMLINED INCOME DETERMINATION FOR FIXED INCOME SOURCES**

The **USA HOUSING AGENCY** reserves the option to implement a streamlined income determination for any family member with a fixed source of income and/or for any family whose adjusted income consists of 90% or more of fixed income sources. Non-fixed sources of income remain subject to third-party verification.

**If implemented, fixed income includes income from:**

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

The streamlined determination will be made by applying a verified cost of living adjustment (COLA) or current rate of interest to the previously verified or adjusted income amount. The COLA or current interest rate applicable to each source of fixed income must be obtained either from a public source or from tenant-provided, third-party generated documentation. The **USA HOUSING AGENCY** must document how the determination was made that a source of income is fixed.

Third-party verification of all income amounts for all family members must be performed at least every three (3) years. The **USA HOUSING AGENCY** must still obtain all family member signatures on required consent forms on an annual basis.

## 5.8. USE OF THE ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM



### Helpful Tips

- ✓ The EIV System is a web-based application that allows PHAs to access employment, wage, unemployment compensation and Social Security benefit information for tenants who participate in the Public Housing and various Section 8 programs.



### Mandatory Policies

- PHAs must use the EIV system in its entirety to verify tenant employment and income information during interim and mandatory reexaminations of family composition and income in accordance with 24 CFR § 5.233, 5.236, and other HUD administrative guidance, including PIH Notice 2018-18.
- PHAs are required to review the EIV Income and Income Validation Tool reports during mandatory and interim reexaminations of family income and/or composition (24 CFR § 5.233).
- Further, PHAs must notify all adult program participants (including minors upon their 18th birthday) of Debts Owed to Public Housing Agencies and Terminations, Form HUD-52675.
- Use and review of the EIV Income and Income Validation Tool reports during mandatory and interim reexaminations is not optional and must be stated as such in the ACOP. PHAs should not include the operating procedure for the EIV system in the ACOP, only the agency's policy for using this tool and why.

### Sample ACOP Language

#### ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM

The HUD Enterprise Income Verification (EIV) System is a web-based application, which provides employment, wage, unemployment compensation and Social Security benefit information for residents who participate in HUD-funded housing programs.

The **USA HOUSING AGENCY** must use the EIV system in its entirety to verify employment and income information during interim and required reexaminations of family composition and income in accordance with 24 CFR §§ 5.233, 5.236.

The **USA HOUSING AGENCY** must review the EIV Income and Income Validation Tool reports during interim and required reexaminations of family income and/or composition.

The **USA HOUSING AGENCY** must notify all adult program participants (including minors upon their 18th birthday) of Debts Owed to Public Housing Agencies and Terminations, Form HUD-52675.

## 5.9. OVER-INCOME DETERMINATION



### Helpful Tips

- ✓ The over-income limit is calculated by multiplying the very low-income income limit by 2.4, as adjusted for family size. HUD publishes income limits, by family size, each year on the HUD website. Consult [PIH Notice 2019-11](#) for additional guidance on setting over-income limits.
- ✓ It is a best practice to make the income limit information available to families online and in other accessible formats, like flyers, or bulletin boards in common areas.
- ✓ The Housing Opportunity Through Modernization Act (HOTMA) final rule provides additional guidance on the alternative non-public housing rent. Supplemental guidance on the policies PHAs must adopt for implementing the over-income limit will be published in 2023, as will the annual Per Unit Subsidy Report.



### Mandatory Policies

- During the reexamination process, if the PHA discovers that the family's income exceeds HUD income limits, the PHA must document this finding in the tenant file.
- If after 12 consecutive months, the family's income exceeds the income limits, the PHA must issue the tenant a written notice explaining that if the family continues to be over-income during the next consecutive 12 months, the family will be subject to either paying alternative rent or termination from the program depending on the policies established by the PHA.
- Once the family has exceeded the over-income limit for two consecutive years (24 months), the PHA has two options. The PHA must either charge an alternative rent (the greater of the fair market rent or the amount of subsidy provided for the unit) or initiate termination of tenancy for the family. If the PHA policy is to terminate tenancy or if the family does not agree to pay the alternative rent, the family will be terminated within six months of the third over-income determination.
- The PHA must restart the 24-month grace period if the family's income subsequently falls below the over-income limit at any point during the "grace period."
- After the third over-income determination and during the 6-month period prior to termination the family will continue to have a choice between income-based or flat rent.



### Discretionary Policy Considerations

- For all over-income families, PHAs must establish a policy to either allow over-income families to remain in their unit or terminate the tenancy of these families within six months of the end of the two-year grace period. If PHAs allow families to remain in their unit after the two-year grace period, they must charge the family the alternative rent, which is the greater of (1) the applicable Fair Market Rent (FMR); or (2) the amount of monthly subsidy for the unit.
- A PHA that owns or operates fewer than two hundred fifty (250) public housing units may lease a unit to an over-income family (a family whose annual income exceeds the limit for a low-income family at the time of initial occupancy) as long as there are no eligible families on the waiting list or applying for public housing assistance when the unit is leased to the over-income family (24 CFR § 960.503).

### ***Sample ACOP Language***

#### **OVER-INCOME DETERMINATION**

The **USA HOUSING AGENCY** will determine if households are over-income as part of the interim and required annual reexamination processes. Once a family exceeds the over-income limit, the information must be documented in the tenant file.

If the initial over-income determination was made during an interim reexamination, the **USA HOUSING AGENCY** will conduct a second interim income reexamination on that date one (1) year later.

If the family's income continues to exceed the over-income limit one year after the initial determination, the **USA HOUSING AGENCY** will provide written notification informing the family that their income has exceeded the over-income limit for one (1) year.

If the family income continues to exceed the over-income limit for the next twelve (12) consecutive months, the family will be subject to an alternative rent in accordance with PIH Notice 2019-11. The **USA HOUSING AGENCY** will increase the monthly rent to the greater of (1) the applicable Fair Market Rent (FMR); or (2) the amount of monthly subsidy for the unit.

If the family does not agree to pay the alternative rent, the **USA HOUSING AGENCY** will initiate termination of tenancy and the household will be required to move within six months of the third over-income determination. During those six months, the household will have the option to pay either income-based rent or flat rent during this timeframe.

When the **USA HOUSING AGENCY** becomes aware of a decrease in income that results in annual income that falls below the over-income limit, the household is no longer considered over-income and the two-year clock stops. A new two-year clock will start if the households' income then increases to above the over-income limit.

The **USA HOUSING AGENCY** will publicly post the over-income limits in a conspicuous manner in the applicable agency or project office and on the agency website.