



# **GUAM ELDERLY HOUSING PROGRAM (GUMA TRANKILIDAT)**

## **TENANT SELECTION PLAN**

**Revised 2024**

DRAFT

Reference of the Revision of the Tenant Selection Plan

CHAPTER, PAGE	Changes Made in GT Administrative Plan
Title Page	Added new proposed and/or revision
Cover page	Change of title and reference name from Administrative Plan to TENANT SELECTION PLAN throughout Policy
Page i & ii	Nan McKay copies right – References Cited in the Tenant Selection Plan
TOC Chapter 1 – Overview Of the Program and Plan Introduction Pg.1-8	Removed Uniform Physical Condition Standards (UPCS) to New Requirements under the <i>National Standard for the Physical Inspection of Real Estate (NSPIRE)</i>
<p>TOC Chapter 2 – Fair Housing and Equal Opportunity</p> <p><b>Part I:</b> Pg. 2-2, 2-3, &amp; 2-4;</p> <p><b>Part III:</b> Pg. 2-10, 2-15, &amp; 2-18</p> <p><b>Part IV:</b> Pg. 2-19 to 2-21</p>	<p><b>Part I:</b> Extended information and clarification Paragraph 2-I.A. &amp; 2-I.B. <i>Nondiscrimination</i> (re-titled Fair Housing to Nondiscrimination)</p> <p>Paragraph 2-I.C. (Added) <i>Discrimination Complaints</i></p> <p><b>Part III:</b> Additional Clarification and Implementation on existing text Paragraph 2-III.B. <i>Policies Related to Persons with Disabilities and Promote Accessibility; Types of Reasonable Accommodations</i></p> <p>Paragraph 2-III.H. <i>Program Accessibility for Persons with Hearing or Vision Impairments</i></p> <p><b>Part IV:</b> Implementation of <i>Improving Access to Services for Person with Limited English Proficiency (LEP)</i></p>
<p>TOC Chapter 3 – Eligibility for Assistance and Occupancy</p> <p><b>Part I:</b> Pg. 3-3, 3-6 to 3-8, 3-14 to 3-15, 3-17, 3-21 to 3-22;</p> <p><b>Part II:</b> Pg. 3-26;</p> <p><b>Part IV:</b> Pg. 3-30, 3-31, 3-32 to 3-33, 3-34 to 3-35, 3-39</p>	<p><b>Part I:</b> Additional clarification on existing text</p> <p>Paragraph 3-I.A. <i>General Provisions</i></p> <p>Paragraph 3-I.E. <i>Disclosure of Social Security Numbers</i></p> <p>Paragraph 3-I.Q. <i>Student Enrolled in Institutions of Higher Education</i></p> <p>Paragraph 3-I.U. <i>Foster Children and Foster Adults</i></p> <p>Paragraph 3-I.V. <i>GHURA Policy - Return of Permanently Absent Family Members</i></p> <p>Paragraph 3-I.X. <i>Family Consent to Release of Information [form HUD 9887 and 9887A]</i></p> <p><b>Part II:</b> Additional clarification on existing text</p> <p>Paragraph 3-II.G. <i>Occupancy Standards</i></p> <p><b>Part IV:</b> Changes &amp; Implementation</p> <p>Paragraph 3-IV.B. <i>Required Denial of Admissions – GHURA Policies pg. 3-30 &amp; 3-31</i></p> <p>Paragraph 3-IV.C. (Implementation) <i>Asset Limitation</i></p> <p>Paragraph 3-IV.D. (Changes) <i>Other Permitted Reasons for Denial of Admission – GHURA Policies pg. 3-34 &amp; 3-35</i></p> <p>Paragraph 3-IV.E. <i>Screening – GHURA Policy pg. 3-36</i></p> <p>Paragraph 3-IV.F. <i>Criteria for Deciding to Deny Admission – GHURA Policy pg. 3-39</i></p>

<p>TOC Chapter 4 – Waiting List and Tenant Selection</p> <p><b>Part I:</b> pg. 4-3 &amp; 4-5; 4-6,</p> <p><b>Part III:</b> pg. 4-11 to 4-12, 4-13, 4-14, 4-15 to 4-20;</p> <p><b>Part IV:</b> pg. 4-22</p>	<p><b>Part I:</b> Additional clarification on existing text</p> <p>Paragraph 4-I.D. <i>Income Targeting – GHURA Policy</i> pg. 4-3</p> <p>Paragraph 4-I.E. <i>Preferences</i></p> <p>Paragraph 4-I.F. (Implementation) <i>Rental History – GHURA Policy</i> pg. 4-6</p> <p><b>Part III:</b> Additional clarification on existing text</p> <p>Paragraph 4-III.B. <i>Taking Applications for Occupancy – GHURA Policy</i> pg. 4-11 to 4-12</p> <p>Paragraph 4-III.D. <i>Placement of the Waiting List – Ineligible &amp; Eligible for Placement on the Waiting List GHURA Policies</i> pg. 4-13</p> <p>Paragraph 4-III.F. <i>Creating and Maintaining List</i></p> <p>Paragraph 4-III.G. <i>Opening and Closing the Waiting List – revisions of GHURA Policies</i> pg. 4-15 to 4-16</p> <p>Paragraph 4-III.H. <i>Placing Families with Disabled Family Members – GHURA Policy</i> pg. 4-17</p> <p>Paragraph 4-III.J. <i>Updating Waiting List Information – GHURA Policy</i> pg. 4-18</p> <p>Paragraph 4-III.K. <i>Removing Names from the Waiting List – GHURA Policy</i> pg. 4-20</p> <p>Paragraph 4-III.L. <i>Reinstating Applicants to the Waiting List</i></p> <p><b>Part IV:</b> Additional clarification on existing text</p> <p>Paragraph 4-IV.B. subparagraph- <i>Interview – GHURA Policy</i> pg. 4-22</p>
<p>TOC Chapter 5 – Determining Income and Calculating Rent</p> <p><b>Part I:</b> pg. 5-11, 5-13, 5-14, 5-16, 5-17, 5-18, 5-19, 5-20, 5-21, 5-22, 5-23, 5-24, 5-27, 5-29, 5-30, 5-33 to 5-38;</p> <p><b>Part II:</b> pg. 5-52 to 5-55, 5-56 to 5-57</p>	<p><b>Part I:</b> Additional clarification on existing text</p> <p>Paragraph 5-I.E. <i>Earned Income Disallowance for Persons with Disabilities &amp; Lifetime Limitation – GHURA Policy</i> pg. 5-13</p> <p>Paragraph 5-I.F. <i>Definition of Independent Contractors</i></p> <p>Paragraph 5-I.G. <i>Assets Inclusions and Exclusions – GHURA Policy</i> pg. 5-16, <i>Valuing Assets, Lump-Sum Additions to Net Family Assets, Imputing Income form Assets, Imputing Income Assets, Jointly Owned Assets, Assets Disposed of for Less than Fair Market Value, Minimum Threshold, Checking and Savings Accounts, Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Mondy Market Funds, Necessary and Non-Necessary Personal Property, Trust, Revocable Trust and Nonrevocable Trusts, Asset Exclusions</i></p> <p>Paragraph 5-I.H. (Implementation) <i>Periodic Payments, Retirement Accounts</i></p> <p>Paragraph 5-I.K. <i>Periodic and Determinable Allowances – GHURA Policy</i> pg. 5-33</p> <p>Paragraph 5-I.L. (Implementation) <i>Nonrecurring Income</i></p> <p>Paragraph 5-I.M. (Implementation) <i>Student Financial Assistance</i></p> <p><b>Part II:</b> Implementation and additional clarification on existing text</p> <p>Paragraph 5-II.G. (Implementation) <i>Hardship Exemptions</i></p> <p>Paragraph 5-II.H. (Implementation) <i>Child Care Expense Hardship Exemption</i></p>

<p>TOC Chapter 6 – Lease Requirements and Leasing Activities  <b>Part II:</b> pg. 6-4</p> <p><b>Part IV:</b> pg. 6-8, 6-10 to 6-14  <b>Part V:</b> pg. 6-15 to 6-28</p>	<p><b>Part II:</b> Additional clarification on existing text  Paragraph 6-II.B. <i>Collection of Security Deposit – GHURA Policy pg. 6-4</i></p> <p><b>Part IV:</b> Additional clarification on existing text  Paragraph 6-IV.B. <i>Unit Inspections: (Additional Implementations) Self-Inspections, Quality Control Inspections, Special Inspections, Other Inspections, Notice of Entry, Emergency Entries, Scheduling of PHA-Conducted Inspections, Attendance at Inspections, Repairs, Emergency Repairs, Non-emergency Repairs, Housekeeping, and NSPIRE Inspections</i></p> <p><b>Part V:</b> Implementation  All of Part V: (Implementation) Pets and Assistance Animals</p>
<p>TOC Chapter 7 – Verification  <b>Part I:</b> pg. 7-1 to 7-2, 7-3 to 7-18  <b>Part III:</b> pg. 7-30, 7-31 to 7-33, 7-35, 7-36</p>	<p><b>Part I:</b> Implementation and additional clarification on existing text  Paragraph 7-I.A. <i>Family Consent to Release of Information</i>  Paragraph 7-I.B. (Implementation) <i>Use of Other Programs’ Income Determinations</i>  Paragraph 7-I.C. (Implementation) <i>Streamlined Income Determinations</i>  Paragraph 7-I.D. (Implementation) <i>Verification Hierarchy</i>  Paragraph 7-I.E. (Implementation) <i>Level 5 and 6 Verifications Up-Front Income Verification</i>  Paragraph 7-I.F. (Implementation) <i>Level 4 Verification</i>  Paragraph 7-I.G. (Implementation) <i>Level 3 Verification Written, Third-Party Form</i>  Paragraph 7-I.H. (Implementation) <i>Level 2 Verification Oral Third-Party Verification</i>  Paragraph 7-I.I. (Implementation) <i>Level 1 Non-Third-Party Verification Technique -Self Certification</i></p> <p><b>Part III:</b> Implementation and additional clarification on existing text  Paragraph 7-III.E. (Implementation) <i>Nonrecurring Income</i>  Paragraph 7-III.F. (Implementation) <i>Assets and Income from Assets</i>  Paragraph 7-III.I. (Implementation) <i>Federal Tax Refunds or Refundable Tax Credits</i>  Paragraph 7-III.K. (Implementation) <i>Income from Excluded Sources</i></p>
<p>TOC Chapter 8 – Recertification, Unit Transfers, and Gross Rent Changes  <b>Part I:</b> pg. 8-3, 8-6  <b>Part II:</b> pg. 8-10, 8-11 to 8-12, 8-14 to 8-17, 8-19</p>	<p><b>Part I:</b> Implementation and additional clarification on existing text  Paragraph 8-I.B. (Implementation) <i>Streamlined Annual Recertifications</i>  Paragraph 8-I.E. (Implementation) <i>Calculating Annual Income at Annual Recertification</i></p> <p><b>Part II:</b> Implementation and additional clarification on existing text  Paragraph 8-II.A. (Additional clarification on existing text) <i>Overview</i>  Paragraph 8-II.B. (Additional clarification on existing text) <i>New family and Household Members Requiring Approval</i>  Paragraph 8-II.C. (Additional clarification on existing text) <i>Family-Initiated Interim Recertifications, (Implementation on) Interim Decreases, Interim Increases, Concurrent Increases in Earned and Unearned Income, Family Reporting</i>  Paragraph 8-II.F. (Additional clarification on existing text) <i>Changes Not</i></p>

<p>TOC Chapter 8 – Recertification, Unit Transfers, and Gross Rent Changes  <b>Part IV:</b> pg. 8-21 to 8-27  <b>Part V:</b> pg. 8-28 to 8-32</p>	<p>Reported Timely  <b>Part IV:</b> Implementation and additional clarification on existing text All of Part IV: Non-Interim Reexamination Transactions [Notice H 2023-10]  <b>Part V:</b> Implementation on All of Part V: Unit Transfers and Gross Rent</p>
<p>TOC Chapter 9 – Violence Against Woman Act  Pg. 9-1 to 9-23</p>	<p>Implementation of All of Chapter 9 – <i>Violence Against Woman Act (VAWA)</i></p>
<p>TOC Chapter 11 – EIV Use and Security  <b>Part I:</b> pg. 11-1 to 11-27</p>	<p>Implementation of All of Chapter 11 – <i>EIV Use and Security</i></p>
<p>TOC Chapter 14 – Program Integrity  <b>Part II:</b> pg. 14-9</p>	<p><b>Part II:</b> Implementation and additional clarification to existing text Paragraph 14-II.D. (Implementation) <i>De Minimis Errors</i></p>

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Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

GUAM ELDERLY HOUSING PROGRAM  
(GUMA TRANKILIDAT)  
TENANT SELECTION PLAN (TSP)

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Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**Table of Contents**

**REFERENCES CITED IN THE TENANT SELECTION PLAN..... I**

**CHAPTER 1 OVERVIEW OF THE PROGRAM AND PLAN ..... 1-1**

**INTRODUCTION ..... 1-1**

**PART I: THE PHA: GUAM HOUSING AND URBAN RENEWAL AUTHORITY ..... 1-3**

    1-I.A. OVERVIEW..... 1-3

    1-I.B. ORGANIZATION AND STRUCTURE OF GHURA..... 1-3

    1-I.C. GHURA’S MISSION ..... 1-3

    1-I.D. GHURA’S PROGRAMS..... 1-4

    1-I.E. GHURA’S COMMITMENT TO ETHICS AND SERVICE ..... 1-4

**PART II: THE PROGRAM - GUAM ELDERLY HOUSING (GUMA TRANKILIDAT) PROGRAM ..... 1-5**

    1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM..... 1-5

    1-II.B. MULTIFAMILY HOUSING PROGRAM BASICS..... 1-5

    1-II.C. THE MULTIFAMILY HOUSING PROGRAM PARTNERSHIPS..... 1-6

    1-II.D. APPLICABLE REGULATIONS ..... 1-9

**PART III: TENANT SELECTION PLAN: GUAM ELDERLY HOUSING (GUMA TRANNKILIDAT) TENANTSELECTION PLAN ..... 1-10**

    1-III.A. OVERVIEW AND PURPOSE OF THE PLAN..... 1-10

    1-III.B. REQUIRED CONTENTS OF THE PLAN [HUD Occupancy Handbook 4350.3] ..... 1-10

        Mandatory vs. Discretionary Policy ..... 1-11

    1-III.C. ORGANIZATION OF THE PLAN ..... 1-11

    1-III.D. MODIFICATION OF THE TENANT SELECTION PLAN..... 1-11

**CHAPTER 2 FAIR HOUSING AND EQUAL OPPORTUNITY ..... 2-1**

**INTRODUCTION ..... 2-1**

**PART I: NONDISCRIMINATION..... 2-2**

    2-I.A. OVERVIEW..... 2-2

    2-I.B. NONDISCRIMINATION..... 2-3

        Providing Information to Families ..... 2-3

    2-I.C. DISCRIMINATION COMPLAINTS..... 2-4

    2-I.D. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964..... 2-4

    2-I.E. AGE DISCRIMINATION ACT OF 1975 ..... 2-5

    2-I.F. SECTION 504 OF THE REHABILITATION ACT OF 1973..... 2-5

    2-I.G. CIVIL RIGHTS RELATED PROGRAM REQUIREMENTS..... 2-5

    2-I.H. TITLE VI, SUBTITLE D OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992 (42 U.S.C. § 13641) ..... 2-7

    2-I.I. REQUIRED DATA AND RECORD-KEEPING..... 2-7

**PART II: NONDISCRIMINATION REQUIEMENTS UNDER THE FAIR HOUSING ACT..... 2-8**

    2-II.A. KEY REGULATION ..... 2-8

    2-II.B. GENERAL..... 2-8

    2-II.C. UNLAWFUL REFUSAL TO RENT OR NEGOTIATE FOR RENTAL ..... 2-8

    2-II.D. OTHER PROHIBITED RENTAL ACTIVITIES..... 2-8

    2-II.E. DISCRIMINATION IN THE REPRESENTATION OF AVAILABE DWELLINGS ..... 2-8

    2-II.F. DISCRIMINATION IN TERMS, CONDITIONS, PRIVILEGES, SERVICES, AND FACILITIES..... 2-9

    2-II.G. DISCRIMINATION MARKETING, STATEMENTS, AND NOTICES ..... 2-9

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

2-II.H. RETALIATORY OCCUPANCY PRACTICES, COERCION, INTIMIDATION, AND INTERFERENCE ..... 2-9

**PART III: POLICIES RELATED TO PERSONS WITH DISABILITIES .....2-10**

2-III.A. OVERVIEW ..... 2-10

2-III.B. POLICIES AND PROCEDURES TO ENSURE NONDISCRIMINATION AND PROMOTE ACCESSIBILITY ..... 2-10

2-III.C. PHYSICAL ACCESSIBILITY ..... 2-14

2-III.D. REASONABLE ACCOMMODATIONS ..... 2-14

Types of Reasonable Accommodations ..... 2-15

2-III.E. REQUEST FOR AN ACCOMMODATION ..... 2-16

2-III.F. VERIFICATION OF DISABILITY ..... 2-16

2-III.G. APPROVAL/DENIAL OF A REQUIRED ACCOMMODATION ..... 2-17

2-III.H. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS [24 CFR 8.6] ..... 2-18

**PART IV: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP) 2-19**

2-IV.A. OVERVIEW ..... 2-19

2-IV.B. ORAL INTERPRETATION ..... 2-19

2-IV.C. WRITTEN TRANSLATION ..... 2-20

2-IV.D. IMPLEMENTATION PLAN ..... 2-21

2-IV.E. HOUSING DISCRIMINATION COMPLAINTS ..... 2-21

EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR §§ 8.3 and 100.201] ..... 2-22

**CHAPTER 3 ELIGIBILITY FOR ASSISTANCE AND OCCUPANCY ..... 3-2**

**INTRODUCTION ..... 3-2**

**PART I: PROGRAM ELIGIBILITY ..... 3-3**

3-I.A. GENERAL PROVISIONS ..... 3-3

3-I.B. KEY REGULATIONS ..... 3-3

3-I.C. KEY ELIGIBILITY REQUIREMENTS [HUD Occupancy Guidebook 4350.3] ..... 3-4

3-I.D. INCOME LIMITS ..... 3-4

Types of Low-Income Families [24 CFR § 5.603(b)] ..... 3-5

Using Income Limits for Eligibility [24 CFR § 960.201] ..... 3-5

3-I.E. DISCLOSURE OF SOCIAL SECURITY NUMBERS [24 CFR 5.216; NOTICE 2023-10] ..... 3-6

3-I.F. SOLE RESIDENCE REQUIREMENT ..... 3-8

3-I.G. CONSENT AND VERIFICATION FORMS ..... 3-8

3-I.H. RESTRICTION ON ASSISTANCE TO NONCITIZENS ..... 3-8

3-I.I. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR Part 5, Subpart E] ..... 3-9

Declaration [24 CFR § 5.508] ..... 3-9

U.S. Citizens and Nationals ..... 3-9

Eligible Noncitizens ..... 3-9

Ineligible Noncitizens ..... 3-10

Ineligible Families [24 CFR § 5.514(d), (e), and (f)] ..... 3-10

Time Frame for Determination of Citizenship Status [24 CFR § 5.508(g)] ..... 3-11

3-I.J. PREPARATION TO COLLECT DOCUMENTATION OF CITIZENSHIP/IMMIGRATION STATUS .. 3-11

3-I.K. REQUIRED DOCUMENTATION OF CITIZENSHIP/IMMIGRATION STATUS ..... 3-11

3-I.L. FAMILY AND HOUSEHOLD [24 CFR § 5.403] ..... 3-11

3-I.M. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY ..... 3-12

Family Breakup ..... 3-12

Remaining Member of a Tenant Family [24 CFR § 5.403] ..... 3-13

3-I.N. HEAD OF HOUSEHOLD [24 CFR § 5.504(b)] ..... 3-13

3-I.O. SPOUSE, COHEAD, AND OTHER ADULT ..... 3-13

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

3-I.P. DEPENDENT [24 CFR § 5.603] .....	3-13
3-I.Q. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR § 5.612; FR Notice 4/10/06; FR Notice 9/21/16; HUD Handbook 4350.3, REV-1, CHG-4, Section 3-13; Notice H 2023-10].	3-14
3-I.R. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY .....	3-15
3-I.S. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR § 5.403].....	3-16
3-I.T. GUESS [24 CFR § 5.100] .....	3-16
3-I.U. FOSTER CHILDREN AND FOSTER ADULTS.....	3-17
3-I.V. ABSENT FAMILY MEMBERS .....	3-18
3-I.W. LIVE-IN AIDE .....	3-20
3-I.X. FAMILY CONSENT TO RELEASE OF INFORMATION [FORM HUD 9887 AND 9887-A] .....	3-21
<b>PART II: PROJECT ELIGIBILITY .....</b>	<b>3-23</b>
3-II.A. KEY REGULATIONS.....	3-23
3-II.B. PROGRAM VERSUS PROJECT ELIGIBILITY .....	3-23
3-II.C. DETERMINING ELIGIBILITY OF REMAINING MEMBER OF A TENANT FAMILY .....	3-23
3-II.D. DEFINITIONS OF ELDERLY AND DISABILITY USED TO DETERMINE PROJECT ELIGIBILITY .....	3-24
3-II.E. ELIGIBILITY REQUIREMENTS FOR ADMISSION TO ELDERLY PROJECTS, BY PROGRAM TYPE COVERED BY TITLE VI, SUBTITLE D OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992	3-25
3-II.F. ELIGIBILITY OF SINGLE PERSONS .....	3-26
3-II.G. OCCUPANCY STANDARDS [HUD Handbook 4350.3, CHG-4, Section 3-23].....	3-26
<b>PART III: VERIFICATION OF ELIGIBILITY FACTORS .....</b>	<b>3-27</b>
3-III.A. KEY REGULATIONS .....	3-27
3-III.B. KEY REQUIREMENTS .....	3-27
<b>PART IV: DENIAL OF ADMISSIONS .....</b>	<b>3-29</b>
3-IV.A. OVERVIEW .....	3-29
3-IV.B. REQUIRED DENIAL OF ADMISSION [HUD Handbook 4350.3, rev-1, CHG-4, Section 4-7; CFR Part 5, Subpart I] .....	3-29
3-IV.C. ASSET LIMITATION [24 CFR 5.618] .....	3-32
3-IV.D. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION .....	3-34
Criminal Activity [24 CFR 960.203(c)] .....	3-34
Previous Behavior .....	3-35
3-IV.E. SCREENING .....	3-36
Screening for Eligibility.....	3-36
Obtaining Information from Drug Treatment Facilities [24 CFR § 960.205] .....	3-37
3-IV.F. CRITERIA FOR DECIDING TO DENY ADMISSION .....	3-38
Evidence.....	3-38
Consideration of Circumstances [24 CFR § 960.203(c)(3) and (d)] .....	3-38
Removal of a Family Member's Name from the Application [24 CFR § 960.203(c)(3)(i)] .....	3-40
Reasonable Accommodation.....	3-40
Restriction on Reapplication Following Denial .....	3-40
3-IV.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING .....	3-41
3-IV.H. NOTICE OF ELIGIBILITY OR DENIAL .....	3-43
<b>CHAPTER 4 WAITING LIST AND TENANT SELECTION .....</b>	<b>4-1</b>
<b>INTRODUCTION .....</b>	<b>4-1</b>
<b>PART I: TENANT SELECTION .....</b>	<b>4-2</b>
4-I.A. OVERVIEW.....	4-2
4-I.B. KEY REGULATIONS.....	4-2

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

4-I.C. TENANT SELECTION .....	4-3
4-I.D. INCOME TARGETING [HUD Handbook 4350.3, REV-1, CHG-4 Section 4-25] .....	4-3
Order of Selection .....	4-4
4-I.E. PREFERENCES.....	4-5
4-I.F. SCREENING FOR SUITABILITY.....	4-6
Screening for Suitability as a Tenant [24 CFR § 960.203(c)] .....	4-6
RENTAL HISTORY.....	4-6
Resources Used to Check Applicant Suitability.....	4-7
4-I.G. PROHIBITED SCREENING CRITERIA .....	4-8
4-I.H. REJECTING APPLICANTS AND DENIAL OF RENTAL ASSISTANCE .....	4-8
<b>PART II: MARKETING.....</b>	<b>4-9</b>
4-II.A. KEY REGULATIONS.....	4-9
4-II.B. AFFIRMATIVE FAIR HOUSING MARKETING REQUIREMENTS .....	4-9
4-II.C. FAIR HOUSING POSTER.....	4-9
<b>PART III: WAITING LIST MANAGEMENT .....</b>	<b>4-10</b>
4-III.A. KEY REGULATIONS .....	4-10
4-III.B. TAKING APPLICATIONS FOR OCCUPANCY.....	4-10
4-III.C. ACCESSIBILITY OF THE APPLICATION PROCESS.....	4-12
4-III.D. PLACEMENT ON THE WAITING LIST.....	4-13
Ineligible for Placement on the Waiting List .....	4-13
Eligible for Placement on the Waiting List.....	4-13
4-III.E. MATCHING APPLICANTS ON THE WAITING LIST TO AVAILABLE UNITS .....	4-14
4-III.F. CREATING AND MAINTAINING WAITING LIST .....	4-14
4-III.G. OPENING AND CLOSING THE WAITING LIST .....	4-15
Closing the Waiting Lists .....	4-15
Opening the Waiting Lists.....	4-16
4-III.H. PLACING FAMILIES WITH DISABLED FAMILY MEMBERS.....	4-17
4-III.I. DOCUMENTING CHANGES TO WAITING LISTS.....	4-18
4-III.J. UPDATING WAITING LIST INFORMATION.....	4-18
Reporting Changes in Family Circumstances .....	4-18
Purging the Waiting List .....	4-19
4-III.K. REMOVING NAMES FROM THE WAITING LIST.....	4-20
4-III.L. REINSTATING APPLICANTS TO THE WAITING LIST .....	4-20
4-III.M. RECORD-KEEPING .....	4-20
<b>PART IV: SELECTING TENANTS FROM THE WAITING LIST.....</b>	<b>4-21</b>
4-IV.A. GENERAL.....	4-21
4-IV.B. APPLICANT INTERVIEWS .....	4-21
NOTIFICATION OF SELECTION.....	4-21
INTERVIEW .....	4-22
COMPLETING THE APPLICATION PROCESS.....	4-23
4-IV.C. APPLYING INCOME TARGETING REQUIREMENTS IN SECTION 8 PROPERTIES .....	4-24
4-IV.D. VERIFICATION OF PREFERENCES .....	4-24
4-IV.E. IMPLEMENTING SCREENING REVIEWS .....	4-25
4-IV.F. ENSURING THAT SCREENING IS PERFORMED CONSISTENTLY.....	4-25
4-IV.G. VERIFYING THE NEED FOR ACCESSIBLE UNITS.....	4-26
<b>CHAPTER 5 DETERMINING INCOME AND CALCULATING RENT.....</b>	<b>5-1</b>
<b>INTRODUCTION .....</b>	<b>5-1</b>
<b>PART I: ANNUAL INCOME .....</b>	<b>5-2</b>
5-I.A. OVERVIEW.....	5-2

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

5-I.B. HOUSEHOLD COMPOSITION AND INCOME .....	5-3
Temporarily Absent Family Members .....	5-3
Absent Students.....	5-4
Absences Due to Placement in Foster Care.....	5-4
Absent Head, Spouse, or Cohead.....	5-4
Absences due to Medical Care.....	5-4
Family Members Permanently Confined for Medical Reasons.....	5-5
Joint Custody of Dependents .....	5-5
5-I.C.    ANTICIPATING ANNUAL INCOME.....	5-6
Basis of Annual Income Projection.....	5-6
Projecting Income .....	5-7
5-I.D. EARNED INCOME.....	5-8
Types of Earned Income Included in Annual Income.....	5-8
Types of Earned Income Not Counted in Annual Income .....	5-8
5-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617; Streamlining Final Rule Federal Register 3/8/16; Notice H 2023-10] .....	5-11
5-I.F. BUSINESS INCOME AND SELF-EMPLOYMENT [24 CFR 5.609(b)(28); Notice H 2023-10] .....	5-14
5-I.G. ASSETS INCLUSIONS AND EXCLUSIONS [24 CFR 5.609 (b)(3)] .....	5-16
5-I.H. PERIODIC PAYMENTS [Notice H 2023-10] .....	5-30
5-I.I. PAYMENTS IN LIEU OF EARNINGS .....	5-32
5-I.J. WELFARE ASSISTANCE .....	5-32
5-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR § 5.609(b)(7)] .....	5-33
5-I.L. NONRECURRING INCOME [24 CFR 5.069(b)(24) and Notice H 2023-10] .....	5-34
5-I.M. STUDENT FINANCIAL ASSISTANCE [24 CFR § 5.609 (b)(9)] .....	5-35
5-I.N. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b)].....	5-39
<b>PART II: ADJUSTED INCOME.....</b>	<b>5-44</b>
5-II.A. INTRODUCTION .....	5-44
5-II.B. DEPENDENT DEDUCTION.....	5-45
5-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION.....	5-45
5-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)] .....	5-46
5-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611 (a)(3)(ii)] .....	5-47
5-II.F. CHILD CARE EXPENSE DEDUCTION.....	5-49
5-II.G. HARDSHIP EXEMPTIONS [24 CFR 5.61(c), (d), and (e).....	5-52
<i>Health and Medical Care and Reasonable Attendant Care and Auxiliary Apparatus Expenses [24</i> <i>CFR 5.611 (c); Notice H 2023-10]</i> .....	5-52
5-II.H. CHILD CARE EXPENSE HARDSHIP EXEMPTION [24 CFR 5.611(d) and Notice H 2023-10] .....	5-56
<b>PART III: CALCULATING RENT .....</b>	<b>5-58</b>
5-III.A. OVERVIEW .....	5-58
5-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630].....	5-59
GHURA Policy .....	5-59
Overview.....	5-59
Implementation of Hardship Exemption .....	5-60
5-III.C. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520] .....	5-62
EXHIBIT 5-1: ANNUAL INCOME FULL DEFINITION.....	63
EXHIBIT 5-2: TREATMENT OF FAMILY ASSETS .....	68
<b>CHAPTER 6 LEASE REQUIREMENTS AND LEASING ACTIVITIES .....</b>	<b>6-1</b>
<b>INTRODUCTION .....</b>	<b>6-1</b>
<b>PART I: LEASES AND LEASE ATTACHMENTS.....</b>	<b>6-2</b>

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

6-I.A. KEY REGULATIONS.....	6-2
6-I.B. LEASE REQUIREMENTS.....	6-3
6-I.C. AMENDING THE LEASE FOR RENT CHANGES.....	6-3
<b>PART II: SECURITY DEPOSITS.....</b>	<b>6-4</b>
6-II.A. KEY REGULATIONS.....	6-4
6-II.B. COLLECTION OF SECURITY DEPOSITS.....	6-4
<b>PART III: CHARGES IN ADDITION TO RENT.....</b>	<b>6-5</b>
6-III.A. KEY REGULATIONS.....	6-5
6-III.B. CHARGES PRIOR TO OCCUPANCY.....	6-5
6-III.C. CHARGES AT INITIAL OCCUPANCY.....	6-5
6-III.D. LATE FEES AND NONPAYMENT OF RENT.....	6-5
6-III.E. PET DEPOSITS [24 CFR 5.318; HUD Handbook 4350.1].....	6-6
6-III.F. OTHER CHARGES DURING OCCUPANCY.....	6-7
<i>Returned checks</i> .....	6-7
<i>Damages</i> .....	6-7
<i>Special Management Services</i> .....	6-7
<b>PART IV: THE LEASING PROCESS AND INSPECTIONS.....</b>	<b>6-8</b>
6-IV.A. BRIEFING.....	6-8
6-IV.B. UNIT INSPECTIONS.....	6-8
Overview.....	6-8
Types of PHA Conducted Inspections.....	6-9
Notice of Entry.....	6-11
6-IV.C. NSPIRE INSPECTIONS [24 CFR 5.705(c); Notice PIH 2023-16].....	6-14
Notice to Residents [Notice PIH 2023-16].....	6-14
<b>PART V: PETS AND ASSISTANCE ANIMALS.....</b>	<b>6-15</b>
6-V.A. OVERVIEW.....	6-15
6-V.B. APPROVAL OF ASSISTANCE ANIMALS [Notice FHEO 2020-01].....	6-16
6-V.C. CARE AND HANDLING.....	6-19
6-V.D. MANAGEMENT APPROVAL OF PETS.....	6-20
6-V.D. STANDARDS FOR PETS [24 CFR 5.318].....	6-21
6-V.E. PET RULES.....	6-24
6-V.F. PET-RELATED CHARGES DUE TO DAMAGES.....	6-28
<b>CHAPTER 7 VERIFICATION.....</b>	<b>7-1</b>
<b>INTRODUCTION.....</b>	<b>7-1</b>
<b>PART I: GENERAL VERIFICATION REQUIREMENTS.....</b>	<b>7-1</b>
7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [HUD Handbook 4350.3, REV-1, CHG-4, Section 5-12; Notice H 2023-10].....	7-1
7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice H 2023-10].....	7-3
7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice H 2023-10].....	7-7
7-I.D. VERIFICATION HIERARCHY [Notice 2023-10].....	7-9
7-I.E. LEVEL 5 AND 6 VERIFICATIONS: UP-FRONT INCOME VERIFICATION (UIV).....	7-10
7-I.F. LEVEL 4 VERIFICATION [Notice H 2023-10].....	7-14
7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM.....	7-16
[Notice H 2023-10].....	7-16
7-I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice H 2023-10].....	7-17
7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice H 2023-10].....	7-18
<b>PART II: VERIFYING FAMILY INFORMATION.....</b>	<b>7-19</b>

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

7-II.A. VERIFICATION OF LEGAL IDENTITY .....	7-19
7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216; Notice H 2023-10] .....	7-20
7-II.C. DOCUMENTATION OF AGE .....	7-22
7-II.D. FAMILY RELATIONSHIPS.....	7-22
7-II.E. VERIFICATION OF STUDENT STATUS.....	7-23
7-II.F. DOCUMENTATION OF DISABILITY.....	7-23
7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508].....	7-25
<b>PART III: VERIFYING INCOME AND ASSETS .....</b>	<b>7-27</b>
7-III.A. EARNED INCOME.....	7-27
7-III.B. BUSINESS AND SELF-EMPLOYMENT INCOME .....	7-28
7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS.....	7-29
7-III.D. ALIMONY OR CHILD SUPPORT [Notice H 2023-10] .....	7-30
7-III.E. NONRECURRING INCOME [Notice H 2023-10].....	7-30
7-III.F. ASSETS AND INCOME FROM ASSETS .....	7-31
Net Family Assets [24 CFR 5.603; Notice H 2023-10] .....	7-31
Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2); Notice H 2023-10].....	7-33
7-III.G. Assets Disposed of for Less than Fair Market Value .....	7-34
7-III.H. NET INCOME FROM RENTAL PROPERTY .....	7-34
7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS [Notice H 2023-10] .....	7-35
7-III.J. RETIREMENT ACCOUNTS .....	7-35
7-III.K. INCOME FROM EXCLUDED SOURCES [Notice H 2023-10].....	7-36
7-III.L. ZERO INCOME REVIEWS [Notice H 2023-10] .....	7-37
7-III.M. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)] .....	7-37
7-III.N. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS.....	7-38
<b>PART IV: VERIFYING MANDATORY DEDUCTIONS .....</b>	<b>7-39</b>
7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS .....	7-39
Dependent Deduction.....	7-39
Elderly/Disabled Family Deduction.....	7-39
7-IV.B. HEALTH AND MEDICAL EXPENSE DEDUCTION [24 CFR 5.611(a)(3)(i)].....	7-39
Amount of Expense.....	7-39
Eligible Household.....	7-40
Qualified Expenses.....	7-40
Unreimbursed Expenses.....	7-40
Expenses Incurred in Past Years .....	7-41
7-IV.C. DISABILITY ASSISTANCE EXPENSES.....	7-41
Amount of Expense.....	7-41
7-IV.D. CHILD CARE EXPENSES .....	7-43
Eligible Child.....	7-43
Unreimbursed Expense .....	7-43
Pursuing an Eligible Activity .....	7-44
Allowable Type of Child Care .....	7-45
Reasonableness of Expenses .....	7-45
<b>CHAPTER 8 RECERTIFICATION, UNIT TRANSFERS, AND .....</b>	<b>8-1</b>
<b>GROSS RENT CHANGES .....</b>	<b>8-1</b>
<b>INTRODUCTION .....</b>	<b>8-1</b>
<b>PART I: ANNUAL RECERTIFICATIONS [HUD Occ. Handbook 4350.3].....</b>	<b>8-2</b>
8-I.A. OVERVIEW.....	8-2
8-I.B. STREAMLINED ANNUAL RECERTIFICATIONS [24 CFR 5.657; Notice H 2016-09].....	8-3

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

8-I.C. SCHEDULING ANNUAL RECERTIFICATIONS .....	8-4
Notification of and Participation in the Annual Recertification Process .....	8-4
8-I.D. CONDUCTING ANNUAL RECERTIFICATIONS .....	8-5
8-I.E. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(c)(2) and Notice H 2023-10] .....	8-6
8-I.F. OTHER CONSIDERATIONS .....	8-8
Criminal Background Checks .....	8-8
8-I.G. EFFECTIVE DATES [24 CFR 5.657 and HUD Handbook 4350.3] .....	8-9
<b>PART II: INTERIM RECERTIFICATIONS [HUD Occ. Guidebook 4350.3; 24 CFR 5.657; Notice H 2023-10] ..</b>	<b>8-10</b>
8-II.A. OVERVIEW .....	8-10
8-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION .....	8-11
New Family and Household Members Requiring Approval .....	8-12
Departure of a Family or Household Member.....	8-13
8-II.C. CHANGES AFFECTING INCOME OR EXPENSES .....	8-13
PHA-Initiated Interim Recertifications .....	8-13
Family-Initiated Interim Recertifications .....	8-14
Interim Decreases [ 24 CFR 5.657 and Notice H 2023-10] .....	8-14
Interim Increases [24 CFR 5.657 and Notice H 2023-10].....	8-15
Concurrent Increases in Earned and Unearned Income [Notice H 2023-10] .....	8-16
Cumulative Increases [Notice H 2023-10].....	8-16
8-II.E. PROCESSING THE INTERIM RECERTIFICATION .....	8-18
Method of Reporting .....	8-18
8-II.F. EFFECTIVE DATES [24 CFR 960.257] .....	8-18
Changes Reported Timely [24 CFR 5.611 and Notice 2023-10] .....	8-18
Changes Not Reported Timely [24 CFR 960.257 and Notice H 2023-10] .....	8-19
<b>PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT [HUD Occ. Guidebook 4350.3].....</b>	<b>8-20</b>
8-III.A. OVERVIEW .....	8-20
8-III.B. NOTIFICATION OF NEW TENANT RENT .....	8-20
8-III.C. DISCREPANCIES.....	8-20
<b>PART IV: NON-INTERIM REEXAMINATION TRANSACTIONS.....</b>	<b>8-21</b>
<b>[Notice H 2023-10] .....</b>	<b>8-21</b>
EXHIBIT 8-1: CALCULATING INCOME AT ANNUAL REEXAMINATION .....	8-22
<b>PART V: UNIT TRANSFERS [HUD Handbook 4350.3; 24 CFR 880.605, 886.125, 886.325, 891.420, 891.620, and 891.760] .....</b>	<b>8-28</b>
8-V.A. TRANSFER REQUESTS.....	8-28
8-V.B. TYPES OF TRANSFERS .....	8-29
PHA-Required Transfers.....	8-30
Transfers Requested by Residents.....	8-30
8-V.C. TRANSFER LIST.....	8-31
8-V.D. GROSS RENT CHANGES [HUD OCC. Handbook 4350.3].....	8-32
 <b>CHAPTER 9 VIOLENCE AGAINST WOMAN ACT (VAWA).....</b>	 <b>9-1</b>
9-A. OVERVIEW .....	9-1
9-B. DEFINITIONS [24 CFR 5.2003] .....	9-1
9-C. NOTIFICATION [24 CFR 5.2005(a)] .....	9-3
Notification to Public .....	9-3
Notification to Applicants and Tenants [24 CFR 5.2005(a)] .....	9-4
9-D. VAWA COMPLAINT PROCESSING [Notice FHEO 2023-01] .....	9-5
9-E. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY .....	9-6
Family Breakup.....	9-6



Guam Elderly Housing Program (Guma Trankilidat)  
 Tenant Selection Plan

9-F. DOCUMENTATION [24 CFR 5.2007] .....9-7  
     Conflicting Documentation [24 CFR 5.2007(b)(2)].....9-8  
     Discretion to Require No Formal Documentation [24 CFR 5.2007(b)(1)(iv)].....9-8  
     Failure to Provide Documentation [24 CFR 5.2007(a)(2)] .....9-9  
 9-G. CONFIDENTIALITY [24 CFR 5.2007(c)] .....9-9  
 EXHIBIT 9-1: SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT,  
 FORM HUD-5380 .....9-10  
 EXHIBIT 9-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR  
 STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382 .....9-16  
 EXHIBIT 9-3: SAMPLE EMERGENCY TRANSFER PLAN .....9-18  
 EXHIBIT 9-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE,  
 DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383 .....9-22

**CHAPTER 10 TERMINATION.....10-1**  
**INTRODUCTION .....10-1**  
**PART I: GROUNDS FOR TERMINATION OF ASSISTANCE.....10-2**  
 10-I.A. KEY REGULATIONS.....10-2  
 10-I.B. APPLICABILITY .....10-2  
 10-I.C. KEY REQUIREMENTS: WHEN ASSISTANCE MUST BE TERMINATED.....10-2  
 10-I.D. PROCEDURES FOR TERMINATING OR REINSTATING ASSISTANCE .....10-3  
 10-I.E. TERMINATION OF ASSISTANCE RELATED TO ESTABLISHING CITIZENSHIP OR ELIGIBLE  
 IMMIGRATION STATUS .....10-4  
     When Assistance Must Not Be Terminated .....10-4  
     Termination of Assistance When Unable to Establish Citizenship or Eligible Immigration Status.10-4  
     Termination of Assistance When a Tenant Allows an Ineligible Individual to Reside in a Unit ....10-5

**PART II: TERMINATION OF TENANCY BY LESSEES .....10-6**  
 10-II.A. KEY REGULATIONS .....10-6  
 10-II.B. KEY REQUIREMENTS .....10-6  
 10-II.C. ALLOWABLE USE OF SECURITY DEPOSIT .....10-6

**PART III: TERMINATION OF TENANCY BY OWNERS.....10-7**  
 10-III.A. KEY REGULATIONS .....10-7  
 10-III.B. OVERVIEW .....10-7  
 10-III.C. MATERIAL NONCOMPLIANCE WITH THE LEASE [HUD Occupancy Handbook 4350.3, Chapter 8]  
 .....10-8  
 10-III.D. DRUG ABUSE AND OTHER CRIMINAL ACTIVITY .....10-10  
 10-III.E. MATERIAL FAILURE TO CARRY OUT OBLIGATIONS UNDER A STATE OR LOCAL LANDLORD  
 AND TENANT ACT .....10-11  
 10-III.F. OTHER GOOD CAUSE.....10-12

**PART IV: DISCREPANCIES, ERRORS, AND FRAUD .....10-13**  
 10-IV.A. PROCEDURES FOR ADDRESSING DISCREPANCIES AND ERRORS .....10-13  
     OVERVIEW .....10-13  
 10-IV.B. PROCEDURES FOR ADDRESSING FRAUD .....10-13  
 10-IV.C. DISCREPANCIES REPORTED IN THE ENTERPRISE INCOME VERIFICATION (EIV).....10-14  
     Requirements Regarding Wage and Income Information Discrepancies .....10-14  
     EIV Reports.....10-14  
 10-IV.D. REIMBURSEMENT TO HUD FOR OVERPAYMENT OF ASSISTANCE [HUD Occupancy Handbook,  
 4350.3, Chapter 8, 8-20] .....10-15  
     A. Tenant’s Obligation to Repay .....10-15  
     B. Owner’s Obligation to Repay.....10-15

Guam Elderly Housing Program (Guma Trankilidat)  
 Tenant Selection Plan

10-IV.E. REIMBURSEMENT TO TENANT FOR OVERPAYMENT OF RENT {HUD Occupancy Handbook  
 4350.3}..... 10-16

**CHAPTER 11 EIV USE AND SECURITY ..... 11-1**

**PART I: INTRODUCTION OF ENTERPRISE INCOME VERIFICATION SYSTEM AND REPORTS ..... 11-1**

11-I.A. OVERVIEW ..... 11-1  
 11-I.B. NOTIFICATION OF APPLICANTS AND RESIDENTS..... 11-2  
     EIV & You Brochure ..... 11-2  
     Forms HUD-9887 and HUD-9887-A..... 11-2  
     Family Members Turning 18 ..... 11-3  
     Penalties for Failing to Consent [24 CFR 5.232] ..... 11-4  
 11-I.C. CONSENT TO DISCLOSE A RESIDENT’S INFORMATION TO ANOTHER PERSON OR ENTITY .... 11-5  
 11-I.D. RESIDENT REQUEST FOR EIV PRINTOUT ..... 11-5

**PART II: EIV REPORTS ..... 11-6**

11-II.A. OVERVIEW ..... 11-6  
 11-II.B. EXISTING TENANT SEARCH REPORT ..... 11-7  
 11-II.C. IDENTITY VERIFICATION REPORTS ..... 11-8  
 11-II.D. DECEASED TENANT REPORT ..... 11-9  
 11-II.E. NEW HIRES REPORT ..... 11-10  
 11-II.F. MULTIPLE SUBSIDY REPORT ..... 11-11  
 11-II.G. NO INCOME REPORTED ON FORM HUD-50059 REPORT ..... 11-12  
 11-II.H. NO INCOME REPORTED BY HEALTH AND HUMAN SERVICES (HHS) OR SOCIAL SECURITY  
 ADMINISTRATION (SSA)..... 11-12  
 11-II.I. SUMMARY REPORT ..... 11-13  
 11-II.J. INCOME REPORT ..... 11-14  
     Using EIV to Verify Social Security Income ..... 11-15  
     Incorporating Cost of Living Adjustment (COLA) Increase ..... 11-15  
 11-II.K. INCOME DISCREPANCY REPORT ..... 11-16

**PART III: RETENTION OF EIV REPORTS ..... 11-17**

11-III.A. OVERVIEW ..... 11-17  
 11-III.B. EIV MASTER FILE DOCUMENTS ..... 11-17

**PART IV: SAFEGUARDING AND SECURITY OF EIV REPORTS ..... 11-19**

11-IV.A. OVERVIEW ..... 11-19  
 11-IV.B. SAFEGUARDING EIV DATA ..... 11-19  
     Technical Safeguards ..... 11-19  
     Administrative Safeguards ..... 11-19  
     Physical Safeguards ..... 11-20  
 11-IV.C. SECURITY AWARENESS TRAINING ..... 11-20  
 11-IV.D. PERSONNEL ..... 11-21  
     EIV System Coordinators ..... 11-21  
     EIV Users ..... 11-22  
     Non-Users with Access to Physical Files ..... 11-22  
 11-IV.E. CONSENT FORMS ..... 11-23  
 11-IV.F. USER NAMES, PASSWORDS AND PASSWORD CHANGES ..... 11-23  
 11-IV.G. SECURITY REQUIREMENTS..... 11-24  
     Computer System Security Requirements..... 11-24  
     Physical Security Requirements ..... 11-24  
 11-IV.H. USE AND HANDLING OF EIV DATA ..... 11-25  
     EIV Printouts..... 11-26  
     Electronic Information from EIV ..... 11-27

Guam Elderly Housing Program (Guma Trankilidat)  
 Tenant Selection Plan

11-IV.I. REPORTING UNAUTHORIZED DISCLOSURE OR INSPECTION..... 11-27

**CHAPTER 12 PROGRAM MANAGEMENT..... 12-1**

**INTRODUCTION ..... 12-1**

**PART I: PROJECT RENTAL SUBSIDIES ..... 12-2**

**PART II: UTILITY ALLOWANCE ..... 12-2**

    12-II.A. OVERVIEW ..... 12-2

*Utility Allowances* ..... 12-2

*Air Conditioning* ..... 12-2

*Reasonable Accommodation* ..... 12-2

**PART III: INFORMAL REVIEWS AND HEARINGS [7 CFR 3560.16] ..... 12-3**

    12-III.A. OVERVIEW ..... 12-3

    12-III.B. INFORMAL REVIEWS ..... 12-3

        Decisions Subject to Informal Review ..... 12-3

        Notice to the Applicant ..... 12-4

        Scheduling an Informal Review [7 CFR 3560.160] ..... 12-4

        Informal Review Procedures ..... 12-4

        Remote Informal Hearings [Notice PIH 2020-32] ..... 12-5

        Ensuring Accessibility for Persons with Disabilities and LEP Individuals ..... 12-5

        Conducting Remote Informal Reviews ..... 12-6

        Informal Review Decision ..... 12-7

        Reasonable Accommodation for Person with Disabilities ..... 12-7

    12-III.C. INFORMAL HEARINGS WITH REGARD TO NONCITIZENS ..... 12-8

        Hearing and Appeal Provisions for Noncitizens [24 CFR 5.514] ..... 12-8

        Notice of Denial or Termination of Assistance [24 CFR 5.514(d)] ..... 12-8

        United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)] ..... 12-9

        Informal Hearing Procedures for Applicants [24 CFR 5.514(f)] ..... 12-10

*Informal Hearing Officer* ..... 12-10

*Evidence* ..... 12-10

*Representation and Interpretive Services* ..... 12-10

        Recording of the Hearing ..... 12-10

*Hearing Decision* ..... 12-11

        Retention of Documents [24 CFR 5.514(h)] ..... 12-11

        Informal Hearing Procedures for Residents [24 CFR 5.514(f)] ..... 12-11

    12-III.D. INFORMAL HEARING FOR RESIDENTS ..... 12-12

        Notice to the Family ..... 12-12

        Definitions [24 CFR 966.53; 24 CFR 966.51(a)(2)(i)] ..... 12-13

    12-III.E. APPLICABILITY [24 CFR 966.51] ..... 12-14

    12-III.F. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54] ..... 12-15

    12-III.G. PROCEDURES TO OBTAIN A HEARING ..... 12-16

        Requests for Hearing and Failure to Request ..... 12-16

        Scheduling of Hearings [24 CFR 966.56(a)] ..... 12-16

        Pre-Hearing Right to Discovery ..... 12-17

*Participant's Right to Bring Counsel* ..... 12-17

*Conduct at Hearings* ..... 12-17

*Evidence* ..... 12-18

        Expedited Grievance Procedure [24 CFR 966.52(a)] ..... 12-19

    12-III.H. SELECTION OF HEARING OFFICER ..... 12-20

*Attendance at the Informal Hearing* ..... 12-20

    12-III.I. REMOTE HEARINGS [Notice PIH 2020-32] ..... 12-21

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

Discovery of Documents Before the Remote Hearing .....	12-21
Ensuring Accessibility for Persons with Disabilities ad LEP Individuals.....	12-22
Conducting Hearings Remotely .....	12-23
12-III.J. DECISION OF THE HEARING OFFICER .....	12-24
Procedures for Rehearing or Further Hearing .....	12-25
Notice of Final Decision .....	12-26
<b>PART IV: FAMILY DEBTS TO THE PHA .....</b>	<b>12-27</b>
12-IV.A. OVERVIEW .....	12-27
12-IV.B. REPAYMENT POLICY.....	12-28
Family Debts to GHURA.....	12-28
Refusal to Enter into An Agreement .....	12-28
Repayment Agreement [24 CFR § 792.103].....	12-28
General Repayment Agreement Guidelines for Families .....	12-28
<b>PART V: RECORD KEEPING .....</b>	<b>12-31</b>
12-V.A. OVERVIEW.....	12-31
12-V.B. RECORD RETENTION.....	12-31
12-V.C. RECORDS MANAGEMENT .....	12-32
Privacy Act Requirements [FR-7092-N-40 and Form-9887] .....	12-32
Upfront Income Verification (UIV) Records .....	12-32
Criminal Records .....	12-33
Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking Records .....	33
 <b>CHAPTER 13 REQUIRED FORM HUD 50059, HUD-50059-A, AND SUBSIDY DATA</b>	
<b>REPORTING .....</b>	<b>13-34</b>
<b>INTRODUCTION .....</b>	<b>13-34</b>
<b>PART I: TENANT RENTAL ASSISTANCE CERTIFICATION SYSTEM (TRACS) .....</b>	<b>13-35</b>
13-I.A. KEY REGULATIONS.....	13-35
13-I.B. INTRODUCTION TO TRACS .....	13-35
13-I.C. OWNER SUBMISSION REQUIREMENTS .....	13-36
13-I.D. DATA COLLECTION AND PROCESSING PROCEDURES .....	13-37
13-I.E. RECORD KEEPING REQUIREMENTS FOR HUD-50059, HUD-50059-A, AND VOUCHERS [HUD Occupancy Handbook 4350.3].....	13-37
13-I.F. HUD-50059 and HUD-50059-A.....	13-38
13-I.G. RESOURCES .....	13-38
<b>PART II: PAYMENTS .....</b>	<b>13-39</b>
13-II.A. KEY REGULATIONS AND STATUTES.....	13-39
13-II.B. ASSISTANCE PAYMENTS .....	13-39
KEY REQUIREMENTS.....	13-39
13-II.C. UTILITY REIMBURSEMENTS .....	13-40
13-II.D. SPECIAL CLAIMS.....	13-40
 <b>CHAPTER 14 PROGRAM INTEGRITY .....</b>	<b>14-1</b>
<b>INTRODUCTION .....</b>	<b>14-1</b>
<b>PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE .....</b>	<b>14-2</b>
14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE .....	14-2
14-I.B. DETECTING ERRORS AND PROGRAM ABUSE.....	14-3
Quality Control and Analysis of Data .....	14-3
Independent Audits and HUD Monitoring.....	14-3
Individual Reporting of Possible Errors and Program Abuse .....	14-3
14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE.....	14-4

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

When GHURA Will Investigate .....	14-4
Consent to Release of Information.....	14-4
Analysis and Findings.....	14-4
Consideration of Remedies .....	14-5
Notice and Appeals .....	14-5
<b>PART II: CORRECTIVE MEASURES AND PENALTIES .....</b>	<b>14-6</b>
14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS .....	14-6
Corrections .....	14-6
Reimbursement .....	14-6
14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE .....	14-6
Family Reimbursement to PHA .....	14-6
PHA Reimbursement to Family .....	14-7
Prohibited Actions.....	14-7
Penalties for Program Abuse.....	14-8
14-II.D. PHA-CAUSED ERRORS OR PRGRAM ABUSE .....	14-9
De Minimis Errors [24 CFR 5.609(c) (4); Notice H 2023-10].....	14-9
Repayment to GHURA .....	14-9
PHA Reimbursement to Family .....	14-9
14-II.E. CRIMINAL PROSECUTION .....	14-11
14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES .....	14-11
<b>ACRONYMS .....</b>	<b>1</b>
<b>GLOSSARY .....</b>	<b>5</b>

# Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

## **REFERENCES CITED IN THE TENANT SELECTION PLAN**

Authority for PHA policies is derived from many sources. Primary among these sources are regulations and guidance issued by HUD. State law also directs PHA policy. State law must be followed where such law exists and does not conflict with federal regulations. In the absence of legal requirements or HUD guidance, industry practice may lead to PHA policy.

### **HUD**

HUD provides the primary source of PHA policy through federal regulations, HUD notices, and handbooks. Compliance with federal regulations, current HUD notices, and HUD handbooks is mandatory.

HUD provides nonmandatory guidance to PHAs through HUD published guidebooks. Expired HUD Notices and handbooks also provide guidance for PHA policy. Following HUD guidance is optional, as long as PHA policies comply with federal law, federal regulations and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, PHA reliance on HUD guidance provides the PHA with a “safe harbor”.

Content contained on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations to a specific pattern.

### **State Law**

Where there is no mandatory federal guidance, PHAs must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, the PHA should follow the state law.

### **Industry Practice**

Where no law or HUD authority exists on a particular subject, industry practice may support PHA policy. An industry practice is a way of doing things that is followed by most Multifamily PBRA properties.

### **Resources Cited in the Tenant Selection Plan (TSP)**

The TSP cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the TSP may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the TSP, and a list of references and document locations that are referenced in the TSP or that may be helpful to you.

On September 29, 2023, HUD issued Notice PIH 2023-27 and Notice H 2023-10 to implement sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA). The notice supersedes relevant portions of the handbook, specially the chapter on

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

eligibility and occupancy, income determinations, and reexaminations. Where chapters have not been altered by the HOTMA

implementation notice, the model policy continues to cite the HUD Handbook 4350.3 Occupancy Requirements of Subsidized Multifamily Housing Programs.

**Resources and Where to Find Them**

Following is a list of resources helpful to the PHA or referenced in the Tenant Selection Plan, and the online location of each.

Document and Location
The HUD website is <a href="http://portal.hud.gov/hudportal/HUD">http://portal.hud.gov/hudportal/HUD</a>
Guidebooks, handbooks, and other HUD resources may be found at the HUDClips website: <a href="http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips">http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips</a>
Code of Federal Regulations <a href="http://www.ecfr.gov">http://www.ecfr.gov</a>
Federal Register <a href="http://www.gpo.gov/fdsys/search/getftoc.action">http://www.gpo.gov/fdsys/search/getftoc.action</a>
HUD Handbook 4350.3, REV-1, Occupancy Requirements of Subsidized Multifamily Housing Programs <a href="http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsg/4350.3">http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsg/4350.3</a>
Housing (H) Notices <a href="http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/notices/hsg">http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/notices/hsg</a>
Multifamily HOTMA resources page <a href="https://www.hud.gov/program_offices/housing/mfh/hotma">https://www.hud.gov/program_offices/housing/mfh/hotma</a>
HOTMA Final Rule <a href="https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&amp;utm_source=federalregister.gov&amp;utm_medium=email">https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&amp;utm_source=federalregister.gov&amp;utm_medium=email</a>
HOTMA Implementation Notice, H 2023-10 <a href="https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf">https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf</a>
VAWA Resources <a href="https://www.hud.gov/vawa">https://www.hud.gov/vawa</a>
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 <a href="https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf">https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf</a>

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## Chapter 1 OVERVIEW OF THE PROGRAM AND PLAN

### INTRODUCTION

Guam Housing and Urban Renewal Authority (GHURA) owns and operates the Guam Elderly Housing, also known as Guma Trankilidat. Guma Trankilidat is a 50-unit dwelling complex consisting of 49 one-bedroom units, 1 two-bedroom unit, a laundry facility, community center, and common area spaces provided to essentially promote community development at the project site.

Guma Trankilidat was built in 1980 through a direct, below-market interest rate loan provided by the United States Department of Agriculture Rural Housing Service Section, 515 Rural Rental Housing Program. The Section 515 direct loan program 7 CFR Part 3560 provides financing to support the development of rental units in rural areas that need affordable housing for moderate-, low-, and very low-income households where this type of housing is unlikely available through other means.

The Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program ‘Administrative Tenant Selection Plan’ serves as a tool established by GHURA to effectively administer and manage the operation of the Multifamily Housing Program. The Administrative Tenant Selection Plan establishes policies that enable GHURA’s staff to carry out the programs in a manner consistent with HUD requirements, and facilitates how the staff should respond to the needs of the families by providing an organized method of reference. The Administrative Tenant Selection Plan corresponds with local goals and objectives contained in GHURA’s Agency Plan (GHURA’s 5-Year Plan and Annual Plan), available on the GHURA website at [www.ghura.org](http://www.ghura.org).

This Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program Administrative Tenant Selection Plan defines GHURA's local policies for operation of its housing programs in the context of federal laws and regulations. All issues related to the Multifamily Housing Program not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices and other applicable law. The policies in this Administrative Tenant Selection Plan have been designed to ensure compliance with the Annual Contributions Contract (ACC) and all HUD- approved applications for program funding. The ACC refers to initial agreement between the U.S. Department of Housing and Urban Development and GHURA.

GHURA is not a federal department or agency. GHURA is identified as a Public Housing Agency, or **PHA**, a governmental or public body, created and authorized by law to develop and operate housing and housing programs for low-income families. GHURA must ensure compliance with federal laws, regulations and notices and must establish policies and procedures to clarify federal requirements and ensure consistency in program operations.



## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

GHURA is responsible for complying with all changes in HUD regulations pertaining to the Multifamily Housing Program. If such changes conflict with this plan, HUD regulations will have precedence.

This chapter contains information about GHURA and its programs with emphasis on the Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program. It also contains information about the purpose, intent and use of the ~~Administrative~~ Tenant Selection Plan.

There are three parts to this chapter:

**Part I: The Public Housing Agency (PHA):** This part includes a description of GHURA, its jurisdiction, its programs, and its mission and intent.

**Part II: Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program:** This part contains information about the Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program operation, roles and responsibilities, and partnerships.

**Part III: Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program Administrative Tenant Selection Plan:** This part discusses the purpose and organization of the plan and its revision requirements.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **PART I: THE PHA: GUAM HOUSING AND URBAN RENEWAL AUTHORITY**

### **1-I.A. OVERVIEW**

This part explains GHURA's creation and authorization, the general structure of the organization, and the relationship between GHURA Board and staff.

### **1-I.B. ORGANIZATION AND STRUCTURE OF GHURA**

The Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program is funded by the federal government and administered by the **Guam Housing and Urban Renewal Authority** for the jurisdiction of Guam.

The officials of a housing authority are known as Commissioners or, collectively, as the Board of Commissioners. Commissioners are appointed in accordance with local housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which the agency conducts business, ensuring that policies are followed by PHA staff and ensuring that the PHA is successful in its mission. The Board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability. Formal actions of the housing authority are taken through written resolutions, adopted by the Board of Commissioners and entered into the official records of the PHA.

The principal staff member of the housing authority is the Executive Director (ED), hired and appointed by the Board of Commissioners. The Executive Director is directly responsible for carrying out the policies established by the commissioners and is delegated the responsibility for hiring, training and supervising the remainder of the PHA's staff in order to manage the day-to-day operations of the agency to ensure compliance with federal and state laws and directives for the programs managed. In addition, the Executive Director's duties include budgeting and financial planning for the agency.

### **1-I.C. GHURA'S MISSION**

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides guiding direction for developing strategy, defining critical success factors, searching out key opportunities, making resource allocation choices, satisfying clients and stakeholders, and making decisions.

#### **GHURA's Mission Statement**

GHURA's mission is to promote the health, safety and welfare of its people by the elimination of slum and blight conditions, by the orderly redevelopment and renewal of communities, by proper planning of community development and by provision of safe, decent, sanitary dwellings for low-income families, through all available federal and local governmental programs and through encouragement of private enterprise to participate in the common tasks of community improvement.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **GHURA'S COMMITMENT TO PROVIDING ETHICAL SERVICE**

GHURA is committed to providing ethical service to the people of Guam by complying with fair and consistent standards set forth by the authority and to those mandated under the Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program.

### **1-I.D. GHURA'S PROGRAMS**

The following programs are included under this ~~Administrative~~ Tenant Selection Plan:

#### **GHURA Policy**

GHURA's Multifamily Housing Program ~~Administrative~~ Tenant Selection Plan is applicable to the operation of Guam Elderly Housing, Guma Trankilidat.

### **1-I.E. GHURA'S COMMITMENT TO ETHICS AND SERVICE**

As a public service agency, GHURA is committed to providing excellent service to Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program participants and partners in the community. GHURA's standards include:

- Administer applicable federal and Guam laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing – in compliance with program housing quality standards and uniformed physical conditions standards– for low-income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human service needs.
- Promote fair housing and the opportunity for low-income families of all ethnic backgrounds.
- Create positive public awareness and expand the level of family and community support in accomplishing GHURA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of GHURA's support systems and commitment to our employees and their development.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **PART II: THE PROGRAM - GUAM ELDERLY HOUSING (GUMA TRANKILIDAT) PROGRAM**

### **1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM**

The intent of this section is to provide the public and staff with information related to the overall operation of the program. There have been many changes to the program since its inception in 1980 and a brief history of the program will assist the audience in understanding the program.

### **1-II.B. MULTIFAMILY HOUSING PROGRAM BASICS**

Guma Trankilidat was built in 1980 through a direct, below-market interest rate loan provided by the United States Department of Agriculture Rural Housing Service Section, 515 Rural Rental Housing Program. The Section 515 direct loan program 7 CFR Part 3560 provides financing to support the development of rental units in rural areas that need affordable housing for moderate-, low-, and very low-income households where this type of housing is unlikely available through other means.

GHURA's Section 515 direct loan obtained in 1980 provided for the construction of Guma Trankilidat. The loan is for 30 years at an annual interest rate of 8% amortized over a 50-year period. In return for receiving financing through the Section 515 direct loan program, GHURA agrees to lease the project's rental units to income-eligible households at rents approved by USDA Rural Development.

Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program *Project Eligibility* is targeted at assisting elderly, defined by HUD as those being of 62 years of age and older, or adult persons with disabilities (18 years and above). *Program eligibility* is intended to assist those who fall below the area median income limits established by HUD for Guam, for moderate-, low-, and very low-income families. There are no local preferences established for the Guma Trankilidat Multifamily Housing Program, therefore; tenant selection from the wait list is based on the time and date of the application.

GHURA receives subsidies from HUD's Multifamily Housing Program to administer, maintain, and operate the day-to-day functions of the rental assistance program in accordance with the HUD Handbook 4350.3. The project rental subsidies keep the amounts that tenants pay for rent at an affordable rate for qualified families.

The purpose of the Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program is to provide rental assistance to eligible families. The rules and regulations of the Multifamily Housing Program are determined by the U.S. Department of Housing and Urban Development. Housing authorities are afforded discretionary policies in the operation of the program which are included in the agency's subject program '~~Administrative~~ Tenant Selection Plan', a document approved by the Board of Commissioners of the PHA.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

The Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program is a Project-Based Rental Assistance program. Subsidies are provided during the occupancy of a unit, unlike the Section 8 Tenant-Based Voucher Program which allows for the mobility or portability of the assistance from one jurisdiction to another.

When a family is determined eligible for the program and a unit becomes available, placement into the unit is based in the order of the applicant's ranking on the waitlist. Applicants are interviewed, briefed about program rules and screened for suitability. Applicants are given reasonable timeframes for submitting pending documents and for deciding on acceptance of a unit offer. Families that are housed are recertified annually for continued participation in the program. Of importance is to note that eligibility is determined only at move-in or initial certification, or in determining the eligibility of a remaining family member in the unit.

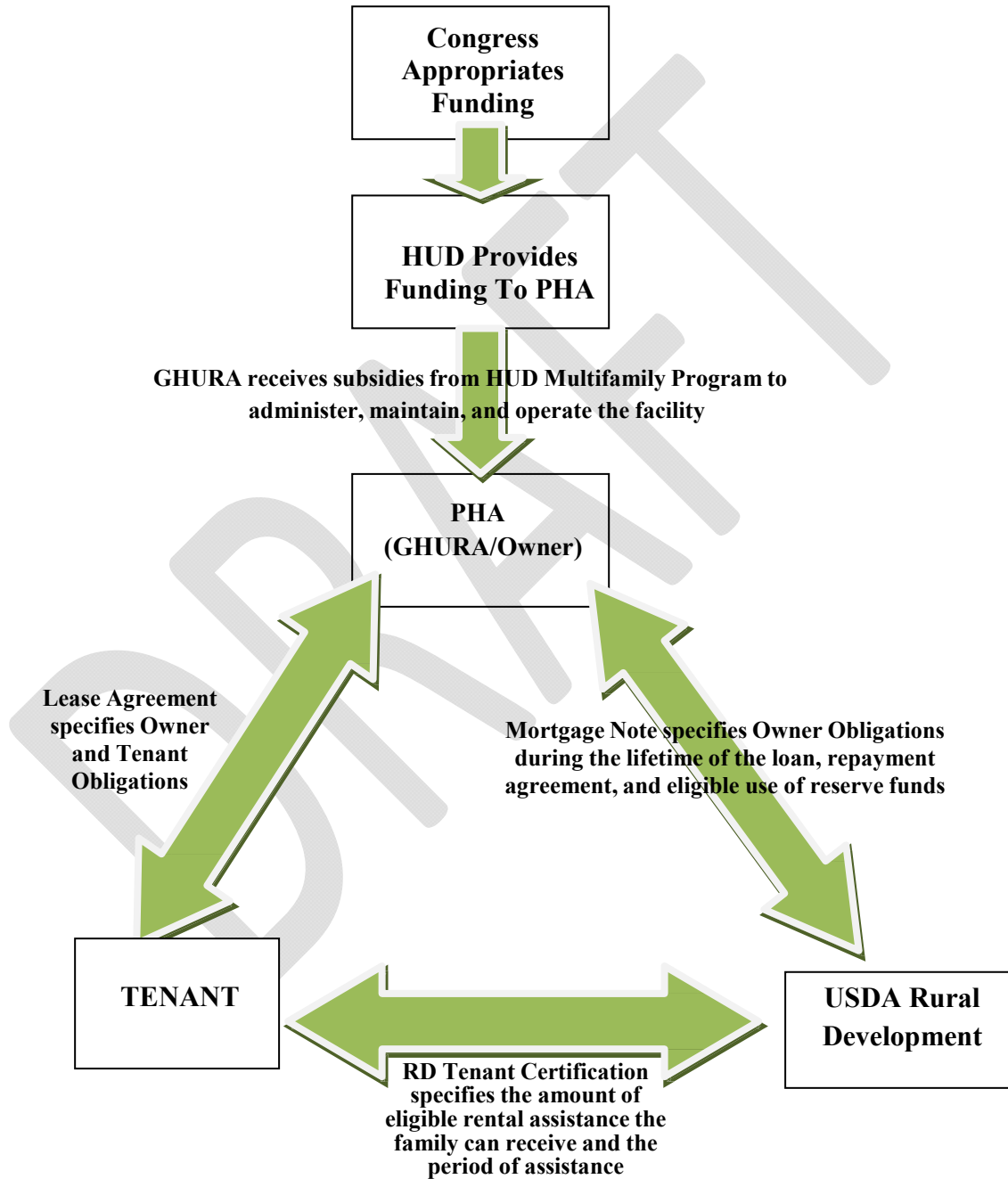
### **1-II.C. THE MULTIFAMILY HOUSING PROGRAM PARTNERSHIPS**

To administer the Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program, GHURA enters into a contractual relationship with HUD. GHURA also enters into contractual relationships with the assisted family through the use of the lease agreement.

For the Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program to effectively implement the program, all parties involved – HUD **Multifamily, Rural Development**, GHURA, and the family – have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the program. The chart on the following page illustrates key aspects of these relationships.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**The Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Relationships:**



## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

**HUD** has the following responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement Multifamily Housing Program legislation passed by Congress;
- Provide subsidies to the PHA;
- Provide technical assistance to PHAs on interpreting and applying Multifamily Housing Program requirements;
- Monitor PHA compliance with Multifamily Housing Program requirements and PHA performance in program administration.

**USDA RURAL DEVELOPMENT** has the following responsibilities:

- Set the budget/reasonable rents for the project [7 CFR§ 3560.406(d)(2)];
- Increase Basic Rents because of New Debt Service;
- Monitor, correct, and recapture unauthorized assistance;
- Monitor financial, physical, fair housing, and occupancy deficiencies;
- Project preservation.

**GHURA** has the following responsibilities:

GHURA administers the Multifamily Housing Program under contract with HUD and has the following major responsibilities:

- Establish local policies;
- Review applications from interested applicant families to determine whether applicants are eligible for the program;
- Maintain waiting list and select families for admission;
- Ensure units comply with ~~Uniform Physical Condition Standards~~ National Standard for the Physical Inspection of Real Estate (NSPIRE);
- Ensure that/families and their rental units continue to qualify under the program;
- Ensure that families comply with program rules;
- Provide families with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, GHURA's Multifamily Housing Program Administrative Tenant Selection Plan, and other applicable federal and Guam laws.

**FAMILY** has the following responsibilities:

- Provide GHURA with complete and accurate information, determined by GHURA to be necessary for administration of the program;
- Attend all appointments scheduled by GHURA;
- Allow GHURA to inspect the unit at reasonable times and after reasonable notice;
- Take responsibility for care of the housing unit, including any violations of NSPIRE or

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

- damages to the unit caused by the family;
- Comply with the terms of the lease;
- Comply with the House Rules;
- Not commit serious or repeated violations of the lease;
- Not engage in drug-related or violent criminal activity;
- Notify GHURA before moving or terminating the lease;
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit, assign the lease, or have any interest in the unit;
- Promptly notify GHURA of any changes in family composition;
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled effectively.

### **1-II.D. APPLICABLE REGULATIONS**

Key Regulations and Statute:

- 24 CFR Part 1, Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development – Effectuation of Title VI of the Civil Rights Act of 1964
- 24 CFR Part 8, Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development (Section 504 of the Rehabilitation Act of 1973)
- 24 CFR Part 100, Discriminatory Conduct under the Fair Housing Act
- 24 CFR Part 146, Nondiscrimination on the Basis of Age in HUD Programs or Activities Receiving Federal Financial Assistance (Age Discrimination Act of 1975)
- 24 CFR 200, Subpart M, Affirmative Fair Housing Market Regulations
- 24 CFR §§ 880.612(a), 881.601, 883.701, 884.223(a), 886.329(a)
- 42 U.S.C. § 13641, Housing and Community Development Act of 1992
- Uniform Federal Accessibility Standards (UFAS) effective July 11, 1988
- 24 CFR, part 5, General HUD Program Requirements; Waivers
- 24 CFR, part 108, Compliance Procedures for Affirmative Fair Housing Marketing
- 24 CFR Part 245, Tenant Participation in Multifamily Housing Project



Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**PART III: TENANT SELECTION PLAN: GUAM ELDERLY HOUSING (GUMA TRANKILIDAT) TENANT SELECTION PLAN**

**1-III.A. OVERVIEW AND PURPOSE OF THE PLAN**

The Administrative Tenant Selection Plan is required by HUD. The purpose of the Administrative Tenant Selection Plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in GHURA's Agency Plan. The Agency Plan refers to GHURA's 5-Year Plan and Annual Plan as required by HUD as stated in Subpart B – PHA Plans, in 24 CFR §903.4. This Administrative Tenant Selection Plan is a supporting document to GHURA's Agency Plan, and must be made available for public review as required by 24 CFR Part 903. GHURA's Agency Plan is available on the GHURA website at [www.ghura.org](http://www.ghura.org).

This Administrative Tenant Selection Plan is set forth to define GHURA's local policies for operation of the housing programs in the context of federal laws and regulations. All issues related to Multifamily Housing Program not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices and other applicable law. The policies in this Administrative Tenant Selection Plan have been designed to ensure compliance with the Annual Contributions Contract (ACC) and all HUD-approved applications for program funding. The ACC refers to initial agreement between the U.S. Department of Housing and Urban Development and GHURA.

GHURA is responsible for complying with all changes in HUD regulations pertaining to the Multifamily Housing Program. If such changes conflict with this plan, HUD regulations will have precedence.

Administration of the MFH Program and the functions and responsibilities of PHA staff shall be in compliance with GHURA's Personnel Rules and Regulations and HUD's Multifamily Housing Program regulations as well as all federal and Guam fair housing laws and regulations.

**1-III.B. REQUIRED CONTENTS OF THE PLAN [HUD Occupancy Handbook 4350.3]**

HUD regulations for the Multifamily Housing Program contain a list of what must be included in the Tenant Selection Plan – Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program. GHURA's Multifamily Housing Program Administrative Tenant Selection Plan must cover PHA policies on these subjects:

- Project eligibility requirements
  - Project specific requirements
  - Citizenship/immigration status requirements
  - Social security number (SSN) requirements

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

- Income limits
- Procedures for taking applications and selecting from the waiting list
  - Taking applications
  - Preferences
  - Income-targeting
  - Applicant screening criteria
  - Procedures for rejecting ineligible applicants
- Occupancy standards
- Unit transfer policies
- Policies to Comply with Section 504 of the Rehabilitation Act of 1973, the Fair Housing Act Amendments of 1988, and Title VI of the Civil Rights Act of 1964

### **Mandatory vs. Discretionary Policy**

HUD makes a distinction between:

- Mandatory policies: those driven by legislation, regulations, current handbooks, notices, and legal opinions, and
- Optional, non-binding guidance: including guidebooks, notices that have expired and recommendations from individual HUD staff.

HUD expects PHAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the agency has adopted. GHURA's Administrative Tenant Selection Plan is the foundation of those policies and procedures. HUD's directions require PHAs to make policy choices that provide guidance to staff and consistency to program applicants and participants.

### **1-III.C. ORGANIZATION OF THE PLAN**

This Plan is organized to provide information to users in particular areas of operation.

### **1-III.D. MODIFICATION OF THE TENANT SELECTION PLAN**

Modification of the Tenant Selection Plan/Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program Administrative Tenant Selection Plan should be reviewed at least annually to ensure that they reflect current operating practices, program priorities, and HUD requirements.

#### **GHURA Policy**

GHURA will review the Administrative Tenant Selection Plan annually, and more often if needed. The Plan will be updated to reflect changes in regulations, GHURA operations, or when needed, to ensure staff consistency in operations.

## Chapter 2 FAIR HOUSING AND EQUAL OPPORTUNITY

### INTRODUCTION

Owners of HUD-subsidized multifamily properties are subject to several important federal civil rights laws affecting both admission and occupancy. These requirements seek to ensure that all applicants have equal access to affordable housing and that owners treat all tenants impartially.

This chapter provides an overview of key federal civil rights and nondiscrimination requirements that pertain to admissions and occupancy in properties subject to the HUD Occupancy Handbook 4350.3. The following chapters describe HUD regulations and GHURA policies related to these topics in four parts:

**Part I: ~~Applicable Laws~~ Nondiscrimination.** This part presents the body of laws and regulations governing the responsibilities of the PHA ~~relevant to occupancy in HUD-subsidized Multifamily Housing Programs~~ regarding nondiscrimination.

**Part II: Nondiscrimination Requirements under the Fair Housing Act.** This part summarizes the key nondiscrimination requirements established under the Fair Housing Act applicable to Multifamily Housing Programs. These rules and policies are based on the Fair Housing Act (42.U.S.C. § 3601 et.seq.) and Section 504 of the Rehabilitation Act of 1973, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

**Part III: Policies Related to Persons with Disabilities.** This part discusses the rules and policies that owners of HUD-subsidized Multifamily Housing related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C) and Section 504 of the Rehabilitation Act of 1973, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

**Part IV: Prohibition of Discrimination Against Limited English Proficiency Persons.** This part details the obligations of GHURA to ensure meaningful access to the Multifamily Housing Program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Person published January 22, 2007, in the *Federal Register*.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **PART I: NONDISCRIMINATION**

### **2-I.A. OVERVIEW**

Federal laws require PHAs to treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of Race, Color, Religion, Sex, National Origin, Age, Familial Status, and Disability. GHURA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

#### **GHURA Policy**

GHURA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the Federal Register February 3, 2012
- The Violence against Women Act (VAWA)
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted.

When more than one civil rights law applies to a situation, the laws will be read and applied together.

#### **GHURA Policy**

No state or local nondiscrimination laws or ordinances apply.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## 2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes **and other groups of people**. State and local requirements, as well as PHA policies, can prohibit discrimination against additional classes of people.

GHURA shall not discriminate ~~on the basis of the following “protected classes”~~ because of race, color, sex, religion, familial status, age, disability or national origin (**called “protected classes”**). Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

GHURA will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12; Executive Oder 13988].

### **GHURA Policy**

In addition to the federal regulations prohibiting discrimination against certain protected classes, GHURA will not discriminate on the basis of marital status or sexual orientation, receipt of public assistance, political beliefs or other affiliations.

GHURA **will not use** any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the program
- Subject anyone to segregation or disparate treatment
- Restrict anyone’s access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant toward or away from a particular area based on any of these factors
- Deny anyone access to the same level of services
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

### **Providing Information to Families**

The PHA must take steps to ensure that families are fully aware of all applicable civil rights laws. As part of the briefing process, GHURA will provide information to Multifamily Housing applicant families about civil rights requirements.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **2-I.C. DISCRIMINATION COMPLAINTS**

### **General Housing Discrimination Complaints**

If an applicant or tenant family believes that any family member has been discriminated against by the PHA, the family should advise the PHA. The PHA should make every reasonable attempt to determine whether the applicant or tenant family's assertions have merit and take any warranted corrective action.

In all cases, the PHA will advise the family that they may file a fair housing complaint if the family feels they have been discriminated against under the Fair Housing Act.

### **GHURA Policy**

Applicants or tenant families who believe that they have been subject to unlawful discrimination may notify GHURA either orally or in writing.

Within 10 business days of receiving the complaint, GHURA will investigate and attempt to remedy discrimination complaints made against GHURA. GHURA will also advise the family of their right to file a fair housing complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The fair housing poster, posted in conspicuous and accessible locations in GHURA Main Office Lobby and at Guma Trankilidat Tumon Office, will reference how to file a complaint with FHEO.

GHURA will attempt to remedy discrimination complaints made against GHURA and will conduct an investigation into all allegations of discrimination.

Within 10 business days following the conclusion of GHURA's investigation GHURA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

GHURA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 12)

## **2-I.D. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

Title VI prohibits all recipients of federal financial assistance from discriminating based on Race, Color, or National Origin. Title VI applies to any program or activity receiving federal financial assistance, not just housing. Each federal agency has its own Title VI regulations. Thus, owners, must remember that if they receive funds from any other federal agency, they will be subject to those agencies' Title VI rules, in addition to HUD's Title VI regulations, which are found at 24 CFR Part 1.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

In housing, Title VI and the Fair Housing Act apply to many of the same types of activities. However, HUD has broader investigative authority in complaints related to violations of Title VI and the authority to impose different types of remedies than it does in cases involving violations of the Fair Housing Act.

Title VI regulations require that recipients have an affirmative obligation to take reasonable steps to remove or overcome any discriminatory practice or usage that subjects individuals to discrimination based on race, color, or national origin. The regulations also require that, even in the absence of prior discrimination, recipients should take affirmative steps to overcome the effects of conditions that results in limiting participation by persons or a particular race, color, or national origin.

Title VI regulations also require that owners maintain racial and ethnic data showing the extent to which member of minority groups are beneficiaries of federal financial assistance.

### **2-I.E. AGE DISCRIMINATION ACT OF 1975**

This Act prohibits discrimination based upon age in federally assisted and funded programs or activities, except in limited circumstances.

It is not a violation of the Act to use age as screening criteria in a particular program if age distinctions are permitted by statute for that program or if age distinctions are a factor necessary for the normal operation of the program or the achievement of a statutory objective of the program or activity.

### **2-I.F. SECTION 504 OF THE REHABILITATION ACT OF 1973**

Section 504 prohibits discrimination based upon disability in all programs or activities operated by recipients of federal financial assistance. Although Section 504 often overlaps with the disability discrimination prohibitions of the Fair Housing Act, it differs in that it also imposes broader affirmative obligations on owners to make their programs as a whole, accessible to persons with disabilities.

The Section 504 regulations establish affirmative accessibility requirements for newly constructed or rehabilitated housing, including providing a minimum percentage of accessible units. In order for a unit to be considered accessible, it must meet the requirement of the Uniformed Federal Accessibility Standards (UFAS).

### **2-I.G. CIVIL RIGHTS RELATED PROGRAM REQUIREMENTS**

HUD-subsidized Multifamily Housing properties are subject to Civil Rights Related Program Requirements developed under civil right authorities. These requirements reflect HUD's obligation to ensure that the programs and activities that receive federal funds comply with federal civil rights laws.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

Some of the Civil Rights Related Program Requirements include, but are not limited to, the terms listed below.

- Occupancy policies
  - Application requirements
  - Waiting list requirements
  - Tenant selection requirements
- Use of residency preferences in a manner that does not have a disparate impact on members of any class of individuals protected by federal civil rights laws;
- Consistent maintenance requirements; and
- Consistent policies across properties owned by the same owner to ensure against steering, segregation, or other discriminatory practices.
- Improving Access to Services for Persons with Limited English Proficiency (LEP). Executive Order (E.O.) 13166 requires Federal agencies and grantees to take affirmative steps to communicate with persons who need services or information in a language other than English.
  - Housing owners must take reasonable steps to ensure meaningful access to the information and services they provide for persons with LEP. This may include interpreter services and/or written materials translated into other languages.
  - HUD specific LEP guidance, “Final Guidance to Federal Financial Assistance Recipients regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons” was published in the Federal Register on January 22, 2007.

### **GHURA Policy**

GHURA will take affirmative steps to communicate with people who need services or information in a language other than English. These individuals will be referred to as “Persons with Limited English Proficiency (LEP)”.

In order to determine the level of access needed by LEP persons, GHURA will weigh the following four factors: 1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the Multifamily Housing Program 2) the frequency with which LEP persons come into contact with the program 3) the nature and importance of the program, activity, or service provided by the program to people’s lives; and 4) the resources available to GHURA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue financial or administrative burden on GHURA.



Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**2-I.H. TITLE VI, SUBTITLE D OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992 (42 U.S.C. § 13641)**

Title VI-D authorizes owners of certain HUD multifamily assisted developments to elect to serve elderly families, limit the numbers of disabled families residing in the projects or to adopt preferences for elderly families, depending upon the type of project and whether certain requirements are met. While owners must comply with all relevant sections pursuant to Title VI-D, owners should pay close attention to Section 651 and 658 with respect to eligibility and tenant selection.

While this statute is not a civil rights law, it is referenced, because if it is applied incorrectly, an owner may be in violation of federal civil rights laws, as well as program requirements.

**2-I.I. REQUIRED DATA AND RECORD-KEEPING**

**Required Data:**

For subsidized Multifamily Housing, HUD requires owners to gather data about the race and ethnicity of applicants and tenants so that HUD can easily spot possible discrimination, track racial or ethnic concentrations, and focus enforcement actions on owners with racially or ethnically identifiable properties. To avoid risk of violating civil rights and nondiscrimination requirements when seeking to gather such data, owners should consistently ask the same questions of all prospective and current tenants.

**Record-Keeping:**

**Records:** Owners must keep civil rights related records in accordance with 24 CFR §§1.6, 8.55(b), and 107.30. The civil rights related records include race and ethnicity data, compliance with Executive Order 11063.

**Access to Records:** Owners are required to allow HUD staff and Contract Administrators access to the relevant records for their properties and other sources of information, as necessary, for determining compliance with civil rights and nondiscrimination requirements.

## **PART II: NONDISCRIMINATION REQUIREMENTS UNDER THE FAIR HOUSING ACT**

### **2-II.A. KEY REGULATION**

24 CFR Part 100, Discriminatory Conduct under the Fair Housing Act

### **2-II.B. GENERAL**

The Fair Housing Act prohibits discrimination in housing on the basis of Race, Color, Religion, Sex, Disability, Familial status, or National Origin. Owners are responsible for ensuring that the policies and practices used in properties covered by HUD Occupancy Handbook 4350.3 do not incorporate prohibited practices. This section provides an overview of these requirements. Owners are fully responsible for understanding and complying with the requirements applicable to their properties.

### **2-II.C. UNLAWFUL REFUSAL TO RENT OR NEGOTIATE FOR RENTAL**

#### **GHURA Policy**

GHURA will not refuse, either directly or indirectly, to rent or negotiate for rental of a dwelling based on an individual's Race, Color, Religion, Sex, Disability, Familial Status, or National Origin, or those of a person associated with the individual.

### **2-II.D. OTHER PROHIBITED RENTAL ACTIVITIES**

#### **GHURA Policy**

GHURA will not engage in activities that steer potential tenants away from or toward particular units by words or actions based on Race, Color, Religion, Sex, Disability, Familial Status, or National Origin.

GHURA will not make housing units and related service unavailable to any potential tenants based upon Race, Color, Religion, Sex, Disability, Familial Status or National Origin.

### **2-II.E. DISCRIMINATION IN THE REPRESENTATION OF AVAILABLE DWELLINGS**

#### **GHURA Policy**

GHURA will not purposely provide false information to applicants about the availability of units that limits the living options of prospective tenants based on Race, Color, Religion, Sex, Disability, Familial Status, or National origin of the applicant or persons associated with the applicant.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **2-II.F. DISCRIMINATION IN TERMS, CONDITIONS, PRIVILEGES, SERVICES, AND FACILITIES**

### **GHURA Policy**

GHURA will not deny or limit services based on Race, Color, Religion, Sex, Disability, Familial Status, or National Origin of the applicant, tenant, or a person associated with the applicant or tenant.

Federal discrimination laws generally prohibit housing providers from implementing policies or practices that appear to be neutral on their face but have a significant adverse or disproportionate impact on persons based on Race, Color, Religion, Sex, National Origin, Familial Status, or Disability.

## **2-II.G. DISCRIMINATION MARKETING, STATEMENTS, AND NOTICES**

### **GHURA Policy**

GHURA will market available units in a nondiscriminatory manner:

- This requirement covers printed or published notices statements, or advertisements.
- The marketing requirement also covers oral notices or statements.

## **2-II.H. RETALIATORY OCCUPANCY PRACTICES, COERCION, INTIMIDATION, AND INTERFERENCE**

It is unlawful to coerce, intimidate, threaten, or interfere with any person's exercise or enjoyment of any Fair Housing rights. It is also unlawful to take such action on account of a person's actions to aid or encourage any other person in the exercise or enjoyment of any Fair Housing rights.

Examples of threatening activities based on classes:

- Intimidating or threatening a person verbally, in writing, or in some other way that results in that person being denied the benefits of living in a unit;
- Threatening, intimidating, or interfering with a persons' enjoyment of a dwelling because of the race, color, religion, sex, disability, familial status, or national origin of such person, or of visitors or associates of such person (including sexual harassment);
- Threatening an employee or agent with firing or other negative acting for any legal, nondiscrimination, pro-regulatory, effort to help someone rent a unit;
- Intimidating or threatening any person because that person is engaging in activities designed to make other persons aware of Fair Hosing rights, or encouraging such other persons to exercise their Fair Housing rights;
- Failing to investigate and address allegations that a tenant or group of tenants is harassing or threatening another tenant because of that tenant's' race, color, national origin, sex, religion, disability, or familial status; and
- Retaliating against a person who has made a complaint, testified, or in any way assisted with proceeding under the Fair housing Act.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**PART III: POLICIES RELATED TO PERSONS WITH DISABILITIES**

**2-III.A. OVERVIEW**

The Fair Housing Act establishes specific nondiscrimination and accessibility requirements for housing sold and rented in the U.S. regardless of whether the housing received any federal financial assistance. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against persons with disabilities and establishes accessibility requirements by recipients of federal financial assistance in both housing and non-housing programs.

Section 504 establishes certain affirmative accessibility standards that owners must meet regardless of whether or not an applicant or tenant has made an individual request for a reasonable accommodation.

Below is a list of regulations pertaining to additional nondiscrimination and accessibility requirements for persons with disabilities:

- 24 CFR Part 8, Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development (Section 504 of the Rehabilitation Act of 1973)
- 24 CFR Part 100, Discriminatory Conduct under the Fair Housing Act
- 24 CFR Part 108, Compliance Procedures for Fair Housing Marketing

**2-III.B. POLICIES AND PROCEDURES TO ENSURE NONDISCRIMINATION AND PROMOTE ACCESSIBILITY**

GHURA must ensure that person with disabilities have full access to the to the GHURA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the Project-Based Rental Assistance (PBRA) program [24 CFR Part 8].

GHURA's Policy

GHURA will ask all applicants and resident families if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the GHURA, by including the following language:

“If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing authority.”

A specific position and phone number will be provided as the contact person for requests for accommodation for persons with disabilities.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

### Nondiscrimination in Owner Policies

- Both Section 504 and the Fair Housing Act prohibit owners from following policies or practices that discriminate overtly on the basis of disability.
- Owners are also obligated to modify any neutral policies which have the effect of discriminating on the basis of disability.
- Owners must not fail to provide reasonable accommodations when such accommodations may be necessary to afford a person with disabilities equal opportunity to use and enjoy a dwelling unit and the public and common areas.
- Owners must ensure that their policies and procedures do not have a disparate or impact on persons with disabilities.
- Owners are not required to provide supportive or other services that fall outside the scope of the applicable housing program for the property.

### Coordinating Efforts to Comply with Section 504 Requirements

- When an owner, managing entity, or project employs 15 or more people, regardless of their location or duties, the owner or managing entity must also designate one person for the property to coordinate efforts to comply with Section 504 requirements. This does not exempt the owner with fewer than 15 employees from complying with Section 504 requirements, only from having to designate a person.

### Communications with Persons with Disabilities

- Owners must take steps to ensure effective communication with applicants, tenants, and members of the public.
- Owners are not required to take any actions when the owner can demonstrate that it would result in a fundamental alteration in the property or program or impose undue financial and administrative burden.
- Owners must take steps to the maximum extent feasible to accommodate requests for effective communication with persons with disabilities.

### Providing Auxiliary Aids to Ensure Effective Communication with Hearing and Speech-Impaired Individuals

- Owners must provide auxiliary aids where necessary to give tenants and applicants with disabilities equal opportunity to receive and enjoy the benefits of the project/assistance.
- In furnishing auxiliary aides needed by persons with disabilities, owners should give primary consideration to the types of aids requested by the individual.
- Appropriate auxiliary aids do not include individually prescribed devices.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

### Written Communications

- Owners must accommodate requests by persons with disabilities to have written materials presented in a manner which can be understood by those individuals.

### Telecommunications

- Where an owner uses a telephone to communicate with members of the public, applicants, and tenants, the owner must use a telecommunications device suitable for the hearing-impaired (TTY) or equally effective communication system.

### Information about availability of Accessible Units

- Owners must have policies and practices to ensure that information about the availability of accessible units reaches eligible persons with disabilities.
- HUD also encourages owners to maintain contact with sources/agencies in the community who provide services to persons with disabilities so that, when accessible unit become available, persons in need of these units may have the opportunity to living in them.

### Determining Eligibility of Applicants for Admission and Assistance

- In applying the nondiscrimination requirements of Section 504 and the Fair Housing Act regarding persons with disabilities, owners must ensure that the policies used at properties covered by this section are consistent with 1) Assigning accessible units, and 2) Moving tenants who require special features into accessible units.
- Determine the eligibility of each applicant on a case-by-case basis.
- Admit applicant in accordance with eligibility requirements of the program/project.
- Uniformly apply the eligibility and tenant selection criteria to all applicants.

### Assigning Accessible Units

- Applicability
  - Projects with five or more units.
  - Units made accessible under Section 504, designed for disabled families/households when the project was approved for funding.
- Eligibility for Accessible Units
  - A percentage of units in most properties contain accessible features. Eligibility for these accessible units may be limited to a specific population.
  - Owners must place applicants eligible for an accessible unit on the waiting list in accordance with the property's waiting list procedures.
  - Owners may not prohibit an eligible family with a member who has a disability from accepting a suitable non-accessible unit if no accessible unit is available when the family reaches the top of the waiting list.
  - If an appropriate-size accessible unit is not available, owners may house an applicant needing an accessible unit in a larger accessible unit in order to maximize the use of the accessible features.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

- Order When Assigning Accessible Units
  - When there is a current tenant or qualified applicant with a household member requiring accessibility features of the unit.
  - When neither a current tenant nor a qualified applicant requires the features of the available accessible unit.

### Moving Tenants Who Require Special Features into Accessible Units

- If a member of a tenant household becomes disabled that requires special accessibility features and requires an accessible unit, the owner may move the tenant into an accessible unit instead of altering the tenant's existing unit to make it accessible.
- If a member of a tenant household is a person who does not need specific accessible features, but whose disability requires that they live on a particular floor, the owner must move that tenant household to the new unit when it is available.
- If the tenant household is being moved to a different unit as a reasonable accommodation to a household member's disability, then the owner must pay for the move unless doing so would constitute undue financial burden.

### Owner Self-Evaluation

- Section 504 requires recipients of federal financial assistance to conduct a self-evaluation of their policies to determine whether they are consistent with the Rehabilitation Act of 1973.
- Ensure owners' ongoing responsibility to operate their programs so that they are accessible to and usable by persons with disabilities [24 CFR §8.24].
- Periodically conduct self-evaluations to ensure compliance.
- Provide Office of Fair Housing and Equal Opportunity the following information:
  - A list of persons consulted during the process;
  - A description of areas of the project the owner examined and any problems identified; and
  - A description of any modifications the owner made and any steps taken to correct them.
- Develop a transition plan for completing structural changes needed to make the property readily accessible and usable to persons with disabilities.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

### 2-III.C. PHYSICAL ACCESSIBILITY

GHURA must comply with a variety of regulations pertaining to physical accessibility, including the following.

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

GHURA's policies concerning physical accessibility must be readily available to applicants and resident families. They can be found in three key documents.

- This policy, the Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program ~~Administrative~~ [Tenant Selection](#) Plan, describes the key policies that govern

GHURA's responsibilities with regard to physical accessibility.

- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.
- GHURA's PHA Plan provides information about self-evaluation, needs assessment, and Section 504 transition plans.

The design, construction, or alteration of GHURA's facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Notice PIH 2010-26 contains specific information on calculating the percentages of units for meeting UFAS requirements.

Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the public housing program.

### 2-III.D. REASONABLE ACCOMMODATIONS

A "reasonable accommodation" is a change, exception, or adjustment to a policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].



## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial burden" for the housing authority, or result in a "fundamental alteration" in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

"Though the use of marijuana has been legalized on Guam per the passage of Public Law 35-5, the possession, use, manufacture, cultivation and distribution of marijuana is strictly prohibited on all GHURA properties. This prohibition extends to Guma Trankilidat units, common areas, administrative buildings, community rooms and facilities, and outdoor areas under GHURA's control. Federal non-discrimination laws do not require public housing authorities to allow marijuana use as a reasonable accommodation for any disability."

### Types of Reasonable Accommodations

When it is reasonable and will not cause undue financial burden, GHURA shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and reexaminations to be completed by mail;
- Conducting home visits for disables persons unable to come the GHURA offices for appointments
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability;
- Installing a ramp into a dwelling or building;
- Installing grab bars in a bathroom;
- Installing visual fire alarms for hearing impaired persons;
- Allowing a GHURA-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit;
- Providing a designated handicapped-accessible parking space;
- Allowing an assistance animal;
- Changing a rent due date to correspond to the date on which you receive disability payments;
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with GHURA staff; and
- Displaying posters and other housing information in locations throughout GHURA's office in such a manner as to be easily readable from a wheelchair.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

### 2-III.E. REQUEST FOR AN ACCOMMODATION

If an applicant or tenant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that GHURA treat the information as a request for a reasonable accommodation, even if no formal request is made. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to GHURA's programs and services.

If the need for the accommodation is not readily apparent or known to GHURA, the family must explain the relationship between the requested accommodation and the disability.

#### **GHURA Policy**

GHURA will encourage the family to make its request in writing using a reasonable accommodation request form [form GHURA 504.2]. However, GHURA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

### 2-III.F. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a *person with a disability* for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of *disability* which is used for waiting list preferences and income allowances.

Before providing an accommodation, GHURA must determine that the person meets the definition of a *person with a disability*, and that the accommodation will enhance the family's access to GHURA's programs and services.

If a person's disability is obvious or otherwise known to GHURA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the PHA, the PHA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

- GHURA must request only information that is necessary to evaluate the disability-related need for the accommodation. GHURA may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- In the event that GHURA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, GHURA will dispose of it. In place of the information, GHURA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

### **2-III.G. APPROVAL/DENIAL OF A REQUIRED ACCOMMODATION**

[Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26]

GHURA must approve a request for an accommodation if the following three conditions are met.

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on GHURA, or fundamentally alter the nature of GHURA's operations.

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the overall size of GHURA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs. Before making a determination whether to approve the request, GHURA may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that GHURA may verify the need for the requested accommodation.

#### **GHURA Policy**

After a request for an accommodation is presented, GHURA will respond, in writing, within ~~15~~ **10** business days.

If GHURA denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal GHURA's decision through an informal hearing (if applicable) or the grievance process.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

If GHURA denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of GHURA's operations), GHURA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the multifamily housing program and without imposing an undue financial and administrative burden.

If GHURA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, GHURA will notify the family, in writing, of its determination within 15 business days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal GHURA's decision through an informal hearing (if applicable) or the grievance process.

## **2-III.H. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS [24 CFR 8.6]**

HUD regulations require the PHA to take reasonable steps to ensure that persons with disabilities related to hearing and vision have reasonable access to the PHA's programs and services [24 CFR 8.6].

### **GHURA's Policy**

At the initial point of contact with each applicant, GHURA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with GHURA staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third-party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **PART IV: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)**

### **2.IV.A. OVERVIEW**

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the public housing program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the *Federal Register*.

The PHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP persons are defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this Tenant Selection Plan, LEP Persons are Multifamily housing applicants and resident families, and parents and family members of applicants and resident families.

In order to determine the level of access needed by LEP persons, the PHA will balance the following four factors: (1) the number or proportion of LEP person eligible to be served or likely to be encountered by the program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or services provided by the program to people's lives; and (4) the resources available to the PHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the PHA.

### **2.IV.B. ORAL INTERPRETATION**

GHURA will offer competent interpretation services free of charge, upon request, to the LEP person.

#### **GHURA's Policy**

GHURA will utilize a language in line for telephone interpreter services.

When exercising the option to conduct remote hearings, however, GHURA will coordinate with a remote interpretation service which, when available, uses video conferencing technology rather than voice-only interpretation.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by GHURA. GHURA at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend. If the interpreter chosen by the family is a minor, GHURA will not rely as on the minor to serve as the interpreter.

GHURA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible and possible, according to its language assistance plan (LAP), GHURA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHA's and will standardize documents.

### **2.IV.C. WRITTEN TRANSLATION**

Translation is the replacement of a written text from one language into an equivalent written text in another language.

#### **GHURA's Policy**

In order to comply with written-translation obligations, GHURA will take the following steps:

GHURA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of person eligible to be served or likely to be affected or encountered.

Translation of other documents, if needed can be provided orally, or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, GHURA may not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **2.IV.D. IMPLEMENTATION PLAN**

After completing the four-factor analysis and deciding what language assistance services are appropriate, the PHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If the PHA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the PHA's housing program and services.

### **GHURA's Policy**

If it is determined that GHURA serves very few LEP persons, and GHURA has very limited resources, GHURA will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

If GHURA determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

## **2-IV.E. HOUSING DISCRIMINATION COMPLAINTS**

HUD is responsible for responding to complaints involving the Fair Housing Act, Section 504 requirements, and other civil rights requirements. Anyone who believes that he or she has been subject to discriminatory treatment from GHURA may file a housing discrimination complaint. If an applicant or tenant indicates to GHURA that they want to file a housing discrimination complaint, GHURA will take one of the following steps:

### **GHURA Policy**

- Refer the individual to HUD;
- Provide the individual with Fair Housing and Equal Opportunity's (FHEO) pamphlet, Fair Housing – It's Your Right (HUD-1686-FHEO); and/or
- Refer the complaint to GHURA's Fair Housing/Section 504 Coordinator to review if the individual's assertions have any merit and make corrections as necessary to ensure compliance.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR §§ 8.3 and 100.201]**

A person with a disability, as defined under federal civil rights laws, is any person who:

- Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or
- Has a record of such impairment, or
- Is regarded as having such impairment

The phrase “physical or mental impairment” includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

“Major life activities” includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

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

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

The definition of a person with disabilities does not include:

- Current illegal drug users
- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the Multifamily Housing program



Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the ~~\$400~~ **\$525** elderly/disabled household deduction, the \$480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

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## Chapter 3 ELIGIBILITY FOR ASSISTANCE AND OCCUPANCY

### INTRODUCTION

GHURA is responsible for ensuring that every individual and family admitted to the Multifamily Housing Program meets all program and project eligibility requirements. This chapter discusses the requirements and procedures for determining whether applicant families may participate in HUD-subsidized Multifamily Housing Programs. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by GHURA to confirm eligibility and determine the level of the family's assistance.

This chapter contains four parts:

**Part I: Program Eligibility.** This part describes the criteria GHURA will use to determine whether a family is eligible to receive assistance.

**Part II: Project Eligibility.** This part describes the criteria by which GHURA will determine whether a family is eligible to reside in the Guam Elderly Housing Program (Guma Trankilidat) Multifamily Housing Program, based on meeting the project eligibility of being elderly, 62 years and above, or adult persons with a disability.

**Part III: Verification of Eligibility Factors.** This part describes how GHURA will collect information to document family composition, disability status, social security numbers, and other factors affecting eligibility for assistance.

**Part IV: Denial of Admissions.** This part describes how GHURA will notify families who do not meet the eligibility criteria of required denial of admissions.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## PART I: PROGRAM ELIGIBILITY

### 3-I.A. GENERAL PROVISIONS

GHURA is ~~required~~ **responsible for ensuring to determine whether that every applicant individual and family admitted to the program are eligible to occupy the subsidized property and receive housing assistance** meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted. The family must provide any information needed by GHURA to confirm eligibility and determine the level of the family's assistance.

In addition to meeting the requirements listed in this section, in order to be eligible:

The unit for which the applicant household is applying will be the household's sole place of residence.

At the time of admission, the applicant may not be receiving rental assistance in another unit unless that assistance will be terminated at the time of admission.

Eligibility is determined by federal statute and HUD regulation that can be found in 24 CFR Part 5. The following are a list of key regulations in regards to program eligibility.

### 3-I.B. KEY REGULATIONS

#### Income limits

- 24 CFR §§ 5.609, and 5.653 (Annual income and income eligibility) Disclosure of Social Security Numbers
- 24 CFR § 5.216 Disclosure and Verification of Social Security and Employer Identification Numbers

#### Consent Forms

- 24 CFR § 5.230, 5.232 (Consent by applicants and assisted participants and penalties for failing to sign consent forms)

#### Restrictions on Assistance to Noncitizens

- 24 CFR Part 5, Subchapter E – Restrictions on Assistance to Noncitizens  
Restriction on Eligibility of Students for Section 8 Assistance
- 24 CFR § 5.612 Restrictions on assistance to students enrolled at an institution of higher education.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**3-I.C. KEY ELIGIBILITY REQUIREMENTS [HUD Occupancy Guidebook 4350.3]**

- A. The family's annual income must not exceed program income limits.
- B. Applicants must disclose social security numbers for all family members at least 6 years of age and older and provide proof of the numbers reported.
- C. All adults in each applicant family must sign an Authorization for Release of Information prior to receiving assistance and annually thereafter.
- D. The unit for which the family is applying must be the family's only residence.
- E. An applicant must agree to pay the rent required by the program under which the applicant will receive assistance.
- F. Only U.S. citizens or eligible noncitizens may receive assistance under Section 8, Section 236, Rent Supplement, Rental Assistance Payment (RAP), and Section 202/8 programs.
- G. All information reported by the family is subject to verification.
- H. Various subsidy or insurance programs may impose additional occupancy restrictions.

**3-I.D. INCOME LIMITS**

A family's eligibility for assistance is based on the income limit applicable to the type of housing assistance the family is to receive. A family may be income-eligible for one of GHURA's programs, but may have too high of an income for another of GHURA's housing programs. For the purposes of GHURA's Multifamily Housing Program, the following three income limits are used to determine eligibility.

**GHURA Policy**

Based on the Area Median Income for Guam (updated and published annually from HUD)

Low-income limit – 80% of median income

Very Low-income limit – 50% median income

Extremely low-income limit – 30% of median income

**Income Limits**

HUD is required by law to set income limits that determine the eligibility of applicants for HUD's assisted housing programs, including the Multifamily Housing Program. The income limits are published annually and are based on HUD estimates of median family income in a particular area or county, with adjustments for family size. Income limits are determined by HUD program type.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**Types of Low-Income Families [24 CFR § 5.603(b)]**

*Low-income family.* A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

*Very low-income family.* A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

*Extremely low-income family.* A family whose annual income does not exceed **the federal poverty level** or 30 percent of the median income for the area, adjusted for family size.

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Using Income Limits for Eligibility [24 CFR § 960.201]**

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family's annual income does not exceed applicable program income limits, a copy of which will be available upon request ~~must be a low-income family.~~

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

### **3-I.E. DISCLOSURE OF SOCIAL SECURITY NUMBERS [24 CFR 5.216; NOTICE 2023-10]**

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

The PHA must accept the following documentation as acceptable evidence of the Social Security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While PHAs 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 PHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the PHA 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 PHA 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.

#### **GHURA's Policy**

GHURA will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

The PHA may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, or illegible, or if the document appears to be forged.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

For applicant families, if all household members have not disclosed and/or provided verification of SSNs for all household members at the time a unit is available and offered to the household, the next eligible applicant will be offered the available unit. The applicant family that has not disclosed SSNs for all household members must disclose and provide verification of SSNs for all household members within 90 days of the date of they are first offered a unit, during which time, the family may remain on the waiting list. If after 90 days of the first unit offer the applicant has not provided the SSN and verification documentation, the applicant will be determined ineligible and removed from the waiting list.

Applicants must disclose social security numbers in order for GHURA to make an eligibility determination.

**GHURA Policy**

Applicants must provide documentation of SSNs by means of a social security card issued by the Social Security Administration or other acceptable evidence of the SSN. Applications without acceptable documentation will continue to be processed with a signed certification provided by the applicant that certifies the number is accurate but that acceptable documentation could not be provided. An applicant will not be housed until the proper SSN card documentation is submitted to GHURA. If the applicant's number is next on the waiting list and the applicant has not provided the SSN Card, the applicant will retain his/her place on the waitlist for a ~~60~~ **90**-day period. If the applicant does not satisfy the requirement within the ~~60~~ **90** days, the applicant will be determined ineligible and removed from the waiting list.

If an applicant family includes a child under six years of age who joined the household within the six months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

When a resident requests to add a new household member who is at least six years of age, or who is under the age of six and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHS may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of six and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

Social security numbers must be verified only once during continuously assisted occupancy.

Once the individual's verification status is classified as "verified," the PHA may remove and destroy copies of documentation accepted as evidence of Social Security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

**GHURA's Policy**

Once an individual's status is classified as "verified" in HUD's EIV system, GHURA will not remove copies of documentation accepted as evidence of Social Security numbers.

**3-I.F. SOLE RESIDENCE REQUIREMENT**

Assisted tenants must have only one residence and receive assistance only in that unit. This rule is to ensure that government assistance is paid only for one unit per family and that more eligible families can receive assistance with available funds.

**GHURA's Policy**

A family is eligible for assistance only if the unit will be the family's only residence. GHURA will not provide any assistance to applicants who will maintain another residence in addition to the HUD-assisted unit.

**3-I.G. CONSENT AND VERIFICATION FORMS**

Adult members of a family must sign consent forms so that GHURA can verify sources of family income and size.

**GHURA Policy**

All adult members of an applicant or tenant family must sign individual verification forms authorizing GHURA to verify family income and other applicable eligibility factors, such as disability status.

**3-I.H. RESTRICTION ON ASSISTANCE TO NONCITIZENS**

Only U.S. citizens and eligible noncitizens by law may receive benefits of federal rental assistance. GHURA complies with the law by ensuring only eligible families receive subsidy.

**GHURA Policy**

To ensure only eligible families receive subsidies, GHURA provides applicants notice of the requirement to submit evidence of citizenship or eligible immigration status at the time of application.



Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

### **3-I.I. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR Part 5, Subpart E]**

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with GHURA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

#### **Declaration [24 CFR § 5.508]**

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, cohead, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

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

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit GHURA to request additional documentation of their status, such as a passport.

##### **GHURA Policy**

Family members who declare citizenship or national status will not be required to provide additional documentation unless GHURA receives information indicating that an individual's declaration may not be accurate.

#### **Eligible Noncitizens**

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with GHURA efforts to verify their immigration status as described in this chapter. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

### **Ineligible Noncitizens**

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. GHURA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR § 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

### **Ineligible Families [24 CFR § 5.514(d), (e), and (f)]**

A PHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR § 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by GHURA that the individual or at least one family member is eligible [24 CFR § 5.512(a)].

#### **GHURA Policy**

GHURA will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen.

When GHURA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 15 business days of the determination.

The notice will explain the reasons for the denial of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with GHURA. The informal hearing with GHURA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

Informal hearing procedures are contained in Chapter 12.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**Time Frame for Determination of Citizenship Status [24 CFR § 5.508(g)]**

For new occupants joining the resident family, GHURA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, GHURA must grant such an extension for no more than 30 days [24 CFR § 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

**GHURA Policy**

GHURA will verify the status of applicants at the time other eligibility factors are determined.

**3-I.J. PREPARATION TO COLLECT DOCUMENTATION OF CITIZENSHIP/IMMIGRATION STATUS**

GHURA is required to verify with the Department of Homeland Security (DHS) the validity of documents provided by applicants via Systematic Alien Verification for Entitlements (SAVE) either at [www.vis-dhs.gov](http://www.vis-dhs.gov) or completing a verification request Form G-845S.

**3-I.K. REQUIRED DOCUMENTATION OF CITIZENSHIP/IMMIGRATION STATUS**

GHURA requires presentation of a U.S. birth certificate or U.S. passport from U.S. citizens. GHURA requires for noncitizens 62 or older, a signed declaration of eligible noncitizen status and proof of age.

**3-I.L. FAMILY AND HOUSEHOLD [24 CFR § 5.403]**

The terms *family* and *household* have different meanings in the Multifamily Housing Programs.

**Family**

To be eligible for admission, an applicant must qualify as a family. A family may be a single person or a group of persons. *Family* as defined by HUD includes a family with a child or children, two or more elderly or disabled persons living together, one or more elderly or disabled persons living with one or more live-in aides, or a single person. GHURA has the discretion to determine if any other group of persons qualifies as a family.

**GHURA Policy**

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have live together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes.

### **Household**

*Household* is a broader term that includes additional people who, with GHURA's permission, live in a Multifamily Housing unit, such as live-in aides, foster children, and foster adults.

### **3-I.M. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY**

#### **Family Breakup**

Except under the following conditions, the PHA has discretion to determine which members of an assisted family continues to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, stalking and human trafficking see section
- If a court determines the disposition of property between members of the assisted family, the PHA is bound by the court's determination of which family members continue to receive assistance.

#### **GHURA Policy**

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may ~~make~~ **submit** a new application with a new application date if the waiting list is open.

If a family breaks up into two otherwise eligible families while living in Multifamily Housing, only one of the new families will continue to be assisted.

If a court determines the disposition of property between members of the applicant or resident family in a divorce or separation decree, GHURA will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, GHURA will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, GHURA will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, or stalking; (4) any possible risks to family members as a result of criminal activity, and (5) the recommendations of social service professionals.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**Remaining Member of a Tenant Family [24 CFR § 5.403]**

The HUD definition of family includes the *remaining member of a tenant family*, which is a member of a resident family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

**3-I.N. HEAD OF HOUSEHOLD [24 CFR § 5.504(b)]**

*Head of household* means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a spouse or cohead.

**GHURA Policy**

The family may designate any qualified family member as the head of household.

The head of household must have the legal capacity to enter into a lease under state and local law.

**3-I.O. SPOUSE, COHEAD, AND OTHER ADULT**

A family may have a spouse or cohead, but not both [HUD-50059, p. 2].

*Spouse* means the marriage partner of the head of household.

A *cohead* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one cohead.

**GHURA Policy**

Minors who are emancipated under Guam law may be designated as a cohead.

*Other adult* means a family member, other than the head, spouse, or cohead, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults [HUD-50059, p. 2].

**3-I.P. DEPENDENT [24 CFR § 5.603]**

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, cohead, foster children/adults and live-in aides.

Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 5.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**3-I.Q. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR § 5.612; FR Notice 4/10/06; FR Notice 9/21/16; HUD Handbook 4350.3, REV-1, CHG-4, Section 3-13; Notice H 2023-10]**

Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR 5.612 established restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving Section 8 assistance as of November 30, 2005, the student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive Section 8 assistance. If, however, a student in these circumstances is determined independent from their parents based on the Department of Education's definition of an *independent student*, which has been expanded to include "vulnerable youth" as defined below, the income of the student's parents will not be considered in determining the student's eligibility.

**The Department of Education's definition of an *independent student* includes an individual who meets one or more of the following criteria:**

- The individual is 24 years of age or older by December 31 of the award year
- The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older
- The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence
- The individual is a veteran of the Armed Forces of the United States or is currently serving on active duty in the Armed Forces for other than training purposes
- The individual is a graduate or professional student
- The individual is married
- The individual has legal dependents other than a spouse
- The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting, by:
  - A local educational agency homeless liaison;
  - The director of a program funded under the Runaway and Homeless Youth Act or a designee of the director;

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

- The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director;  
or
- A financial aid administrator
- The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances

**The law does not apply to students who reside with parents who are applying to receive Section 8 assistance. It is limited to students who are seeking assistance on their own, separately from their parents.**

If a student is applying for assistance on their own, apart from their parents, the O/A must determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, the O/A must ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from their parents or the student's parents are income eligible for the program, (3) the "family" with which the student is applying is collectively eligible for the program, (4) is of legal contract age under state law, (5) has established a household separate from parents or legal guardians for at least one year, (6) is not being claimed as a dependent by parents or legal guardians pursuant to IRS regulations, and (7) obtains a certification of the amount of financial assistance provided by parents, signed providing the support.

### **3-I.R. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY**

#### **Elderly Persons**

An *elderly person* is a person who is at least 62 years of age [24 CFR § 5.100].

#### **Near-Elderly Persons**

A *near-elderly person* is a person who is 50-61 years of age [24 CFR § 945.105].

#### **Elderly Family**

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person [24 CFR § 5.403]. Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 5 and may qualify for a particular type of development.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

### **3-I.S. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR § 5.403]**

#### **Persons with Disabilities**

Under the Multifamily Housing Program, special rules apply to persons with disabilities and to any family whose head, spouse, or cohead is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Section 3-II.D. of this Chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, GHURA must make all aspects of the Multifamily Housing Program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

#### **Disabled Family**

A *disabled family* is one in which the head, spouse, or cohead is a person with disabilities. Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 5 and may qualify for a particular type of development.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent GHURA from denying admission for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from enforcing the lease following the policies in Chapter 6.

### **3-I.T. GUEST [24 CFR § 5.100]**

A *guest* is defined as a person temporarily staying in the unit with the consent of a tenant or other member of the household who has expressed or implied authority to so consent on behalf of the tenant.

The lease must provide that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests [24 CFR § 966.4(d)]. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near PHA premises [24 CFR § 966.4(f)].

#### **GHURA Policy**

A resident family must notify GHURA when overnight guests will be staying in the unit. A guest can remain in the unit no longer than 14 cumulative calendar days during any 12-month period. Unauthorized occupants are trespassers.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last 20 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.



Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the multifamily housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above.

Former residents who have been evicted are not permitted as overnight guests.

Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence constitutes violation of the lease.

### **3-I.U. FOSTER CHILDREN AND FOSTER ADULTS**

*Foster adults* are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR § 5.609(c) (2)].

The term *foster child* is ~~not specifically defined by the regulations.~~ defined as a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g. public child welfare agency) or by judgement, decree, or other order of any court of competent jurisdiction.

Foster children and foster adults that are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR § 5.609].

#### **GHURA Policy**

A foster child is a child that is in the legal guardianship or custody of a government or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.V.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

### **3-I.V. ABSENT FAMILY MEMBERS**

Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, and illness.

#### **Definitions of Temporarily and Permanently Absent**

##### **GHURA Policy**

Generally, an individual who is or is expected to be absent from the Multifamily Housing unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the Multifamily Housing unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

#### **Absent Head, Spouse, or Cohead**

##### **GHURA Policy**

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

#### **Individuals Confined for Medical Reasons**

##### **GHURA Policy**

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

If there is a question about the status of a family member, GHURA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

#### **Absences Due to Medical Care**

##### **GHURA Policy**

A family member absent from Guam for medical care may continue to be considered part of the family on a case-by-case basis as determined by GHURA.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**Return of Permanently Absent Family Members**

**GHURA Policy**

~~GHURA may deny permission to return to any adult family members who have previously left the unit.~~ The family must request GHURA approval for the return of any adult family member that GHURA has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed in this chapter.

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Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

### 3-I.W. LIVE-IN AIDE

*Live-in aide* means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR § 5.403].

GHURA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by a family member with disabilities.

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR § 5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

#### **GHURA Policy**

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional of the family's choosing, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly or disabled family member. For continued approval, the family must submit a new, written request—subject to GHURA verification—at each annual reexamination.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

GHURA has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if [24 CFR § 966.4(d)(3)(i)]:

The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

The person has a history of drug-related criminal activity or violent criminal activity; or

The person currently owes rent or other amounts to GHURA or to another PHA in connection with Section 8, Public Housing, or Multifamily Housing assistance under the 1937 Act.

Within ~~15~~ **10** business days of receiving a request for a live-in aide, including all required documentation related to the request, GHURA will notify the family of its decision in writing.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

### 3-I.X. FAMILY CONSENT TO RELEASE OF INFORMATION [FORM HUD 9887 AND 9887-A]

**[HUD Handbook 4350.3, 24 CFR § 5.230, REV-1, CHG-4, Section 5-12; Notice H 2023-10]**

~~HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information.~~

~~Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.~~

~~GHURA must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow GHURA to obtain information that GHURA has determined is necessary in administration of the multifamily housing program [24 CFR 960.259(a) and (b)].~~

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA's verification of that information.

All adult family members (and the head and spouse/cohead, regardless of age) are required to sign the Consent to Release of Information Forms HUD-9887 and 9887-A at admission.

On or after January 1, 2024, current residents must sign and submit a new Form HUD-9887 and 9887-A at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9887 and 9887-A will not be submitted to the PHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PHA in administrative instructions.

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHA's must establish these policies stating when family members will be required to sign consent forms at intervals other than at recertification.

#### **GHURA's Policy**

Household members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Forms HUD-9887 and 9887A within seven days of turning 18 years of age.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

The PHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the PHA determines, the record is needed to establish an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PHA to revoke consent. All adult members must also sign all PHA-created individual verification forms. If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants or terminate the assistance of tenants.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. PHA's may not process interim or annual reexaminations of income without the family's executed consent forms.

### **GHURA's Policy**

GHURA has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with GHURA policy.

In order for a family to revoke their consent, the family must provide written notice to GHURA.

Within 10 business days of the date the family provides written notice, GHURA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, GHURA will notify their local HUD office.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **PART II: PROJECT ELIGIBILITY**

### **3-II.A. KEY REGULATIONS**

Eligibility for Admission to Section 8 Projects

- 24 CFR part 5, subpart D (Definitions for Section 8)

Eligibility for Admission to Individual Section 202, Section 202/8, Section 202/162 PAC, Section 202 PRAC, and Section 811 PRAC Projects

- 24 CFR part 891, subparts A, B., C, and D (Section 202 PRAC and Section 811 PRAC projects)
- 24 CFR part 891, subpart E (Section 202/8 and Section 202 PAC projects)  
Occupancy Standards
- 24 CFR 236.745; 880.603; 883.701; 884.214 and 219; 886.121, 125 and 132; 886.321, 325 and 329; 891.410 and 420; 891.610 and 620; and 891.750 and 760 (Selection and admission of assisted tenants, and occupancy limitations)

### **3-II.B. PROGRAM VERSUS PROJECT ELIGIBILITY**

**Program eligibility** determines whether applicants are eligible for assistance.

**Project eligibility** establishes whether applicants are eligible to reside in the specific project to which they have applied.

### **3-II.C. DETERMINING ELIGIBILITY OF REMAINING MEMBER OF A TENANT FAMILY**

When a family composition changes after move-in and initial occupancy, if the qualifying member leaves the unit, a determination must be made as to whether the remaining member of the household is eligible to continue to receive assistance.

The following requirements for eligibility must be met for a person to qualify as a remaining member of a household:

1. The individual must be a part of the lease when the family member leaves the unit.
2. The individual must be of legal contract age under state law.
3. The remaining family member is defined in Section 202 and Section 811 regulations as the surviving member or members of an elderly family or family with disabilities that was a party to the lease and living in the assisted unit with the now deceased member of the family at the time of his or her death.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

### **3-II.D. DEFINITIONS OF ELDERLY AND DISABILITY USED TO DETERMINE PROJECT ELIGIBILITY**

Applicable definitions of Elderly and Disability for Section 8 New Construction and RHS Section 515/8 (HUD Occupancy Handbook, Chapter 3).

**Elderly Family** – Elderly family means a family whose head or spouse or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Disabled Family** [24 CFR 5.403] – A disabled family is a family whose head, spouse, or sole member is a person with disabilities. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in-aides.

**Person with Disabilities** [24 CFR 5.403] – A person with disabilities for purposes of program eligibility:

- 1) Means a person who:
  - a. Has a disability, as defined in 42 U.S.C. 423;
    - i. Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or
    - ii. In the case of an individual who has attained the age of 55 and is blind, inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he/she has previously engaged with some regularity and over a substantial period of time. For the purposes of this definition, the term blindness, as defined in section 416(i)(1) of this title, means central vision acuity of 20/200 or less in the better eye with use of correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the wildest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purposes of this paragraph as having a central visual acuity of 20/200 or less.
  - b. Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
    - i. Is expected to be of long-continued and indefinite duration,
    - ii. Substantially impedes his or her ability to live independently, and
    - iii. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or



Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

- c. Has a developmental disability, as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8)), i.e., a person with a severe chronic disability that
  - i. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
  - ii. Is manifested before the person attains age 22;
  - iii. Is likely to continue indefinitely;
  - iv. Results in substantial functional limitation in three or more of the following areas of major life activity:
    - 1. Self-care;
    - 2. Receptive and expressive language,
    - 3. Learning,
    - 4. Mobility,
    - 5. Self-direction,
    - 6. Capacity for independent living, and
    - 7. Economic self-sufficiency; and
  - v. Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.
- 2) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;
- 3) For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and
- 4) Means person with disabilities (individual with handicaps), as defined in 24 CFR 8.3, for purposes of reasonable accommodation and program accessibility for persons with disabilities.

**3-II.E. ELIGIBILITY REQUIREMENTS FOR ADMISSION TO ELDERLY PROJECTS, BY PROGRAM TYPE COVERED BY TITLE VI, SUBTITLE D OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992**

Title VI, Subtitle D of the Housing and Community Development Act of 1992 (Title VI-D) authorizes owners to establish a preference for elderly families in certain Section 8 assisted properties that were designed primarily for occupancy by elderly families if certain requirements are met. Title VI-D also permits owners of certain other federally assisted properties that were designed in whole or part for the elderly to continue to restrict occupancy to elderly families in accordance with the rules, standards, and agreements governing occupancy at the time of development of the project if certain requirements are met.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

### **3-II.F. ELIGIBILITY OF SINGLE PERSONS**

HUD does not restrict the admission of single persons to assisted housing.

### **3-II.G. OCCUPANCY STANDARDS [HUD Handbook 4350.3, CHG-4, Section 3-23]**

In selecting a family to occupy a particular unit, the PHA may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 5.655(b)(4)]. HUD does not specify the number of persons who may live in units of various sizes. Although the PHA does determine the size of unit the family qualifies for under the occupancy standards, the PHA does not determine who shares a bedroom/sleeping room. Occupancy standards will be applied in a manner consistent with fair housing requirements. Applicants will be housed in a unit size appropriate for their household.

Live-in aides and foster children and adults are considered members of the household, not the family. While the income and assets of these household members are excluded when determining initial eligibility, all members of the household, including foster children and adults and any live-in aides, are considered for purposes of unit size. HUD defines a foster adult as a member of the household who is 18 years or older and meets the definition of a foster adult under state law. State-level agencies define who is considered a foster adult/child, so the classification may vary from state to state. In general, a foster adult is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgement, decree, or other order of any court of competent jurisdiction.

Owners must develop and follow occupancy standards that take into consideration the size and number of bedrooms needed for the number of people in a family. The standards serve to prevent the over- or underutilization of units that can result in an inefficient use of housing assistance.

#### **GHURA POLICY**

1 Bedroom Unit = 1 to 2 persons per bedroom.

Live-in aides are not entitled to an additional bedroom, as the project only provides 1-bedroom units.

The living room is counted as a sleeping room.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## PART III: VERIFICATION OF ELIGIBILITY FACTORS

### 3-III.A. KEY REGULATIONS

- 24 CFR 5.659 Family Information and Verification
- 24 CFR 5.216 Disclosure and Verification of Social Security and Employer Identification Numbers

### 3-III.B. KEY REQUIREMENTS

- A. Owners must verify all income, expenses, assets, family characteristics, and circumstances that affect family eligibility, order of applicant selection, or level of assistance.
- B. Three methods of verification are acceptable to HUD: third-party verification; review of documents provided by the applicant; or self-certification.

#### **GHURA Policy**

GHURA adopts the following three methods acceptable by HUD for verification of the items stated in key requirements of this subsection.

1. Third-party verification (written or oral)
  2. Review of documents provided by the applicant; or
  3. Self-certification
- C. This section covers Verification of the following:
1. Family Composition
  2. Family Type and Individual Status
    - i. Disability  
GHURA will verify disability to determine whether a family or person meets the definition of disability used to determine eligibility for the project, preferences, or an allowance, or identify applicant needs for features of accessible units or reasonable accommodations. GHURA will not specifically ask for or verify the nature and extent of the disability.
    - ii. Age  
GHURA may verify age to determine eligibility for a property restricted to elderly persons or families to determine whether a person is old enough to sign a legally binding contract. GHURA may also verify age to determine whether a family is entitled to certain allowances.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

3. Need for an Assistance Animal  
GHURA will verify whether the applicant or tenant has a disability and that there is a disability-related need for the requested accommodation – the assistance animal.
4. Income Eligibility
5. Proof of Social Security Numbers
6. Citizenship and Immigration Status
7. Eligibility of a Student for Assistance
8. Eligibility of Students for Other Assistance Programs

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Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **PART IV: DENIAL OF ADMISSIONS**

### **3-IV.A. OVERVIEW**

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied admission.

In addition, HUD requires or permits GHURA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. GHURA's authority in this area is limited by the Violence against Women Act of 2005 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, or stalking [24 CFR 5.2005(b)].

This part covers the following topics:

- Required denial of admission
- Asset Limitation
- Other permitted reasons for denial of admission
- Screening
- Criteria for deciding to deny admission
- Prohibition against denial of admission to victims of domestic violence, dating violence, or stalking
- Notice of eligibility or denial

### **3-IV.B. REQUIRED DENIAL OF ADMISSION [HUD Handbook 4350.3, rev-1, CHG-4, Section 4-7; CFR Part 5, Subpart I]**

PHAs are required to establish standards that prohibit admission of an applicant to the Multifamily Housing Program if they have engaged in certain criminal activity or if GHURA has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

Where the statute requires that GHURA prohibit admission for a prescribed period of time after some disqualifying behavior or event, GHURA may choose to continue that prohibition for a longer period of time [24 CFR 960.203(c)(3)(ii)].

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

HUD requires GHURA to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits but does not require GHURA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

**GHURA Policy**

GHURA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past ~~5~~ **three (3)** years for drug-related criminal activity, if GHURA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by GHURA, or the person who committed the crime is no longer living in the household.

- GHURA determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].

**GHURA Policy**

*Currently engaged in* is defined as any use of illegal drugs during the previous Six months.

- GHURA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

**GHURA Policy**

In determining reasonable cause, GHURA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. GHURA will also consider evidence from treatment providers or community-based organizations providing services to household members. A pattern of abuse of alcohol will be considered three or more alcohol-related arrests in the last two years.

- If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine in any location, not just federally assisted housing, the family will be denied admission.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

**GHURA Policy**

At the time of application processing, GHURA will screen all applicants and household members for state sex offender registration in all states where the applicant and members of the applicant's household have resided using the Dru Sjodin National Sex Offender Database (<http://www.nsopw.gov>).

If it is determined that a household member is subject to a state lifetime sex offender registration requirement, the household will be denied, or assistance will be terminated, unless the ineligible household member is removed from the household. For applicant households, the ineligible household member must be removed from the application, or the application will be denied.

GHURA will screen all household members for state sex offender registration and criminal history at the time of each resident's annual recertification. Should there be any evidence that any member of the applicant/resident household is subject to a state lifetime sex offender registration program or that any prior records have been falsified or not properly disclosed, or that a criminal history is discovered that violates the above policies in effect at the time of the annual recertification, the resident's lease may be immediately terminated or the family will be given the opportunity to remove the offender from the household.

In the cases listed above, proof that the ineligible member has been removed from the household must be provided to management. This would include (1) executing a new lease without the ineligible household member, or (2) established utility account at another address, or (3) verification of a change in address from the U. S. Postal Service for the ineligible member.

- Any member of the family fails to sign and submit consent forms for obtaining information.
- The family does not meet the restrictions on net assets and real property ownership as required by 24 CFR 5.618.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**3-IV.C. ASSET LIMITATION [24 CFR 5.618]**

There are two circumstances under which a family is ineligible to receive assistance based on asset ownership.

First, assistance may not be provided to any family if the family's net assets exceed \$100,000 (adjusted annually by HUD).

Second, the family has real property (as defined under state law in which the property is located) that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property; and
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

GHURA does not have the discretion not to enforce or provide limited enforcement of the asset limitation at admission. However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- 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 family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
  - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the O/A must comply with all the confidentiality requirements under the Violence Against Women Act (VAWA). The O/A must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

A property is considered *suitable for occupancy* 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;



## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

### **GHURA Policy**

GHURA defines *not sufficient for the size of the family* as being overcrowded based on the GHURA's occupancy standards in Chapter 3 of this policy.

- 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 GHURA);

### **GHURA Policy**

In general, GHURA defines *a geographic hardship* to include when a family members' work, school, health care provider, or other necessary service is located an unreasonable distance from the real property or there is a lack of adequate transportation options for the family to access work, school, health care, or other necessary services. GHURA will consider circumstantial details a family faces when determining whether a geographical hardship is present.

- Is not safe to reside in because of the physical condition of the property (e.g., 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.

If a family meets one of the above exceptions, the real property is not automatically excluded from the calculation of net family assets. Unless the real property is specifically excluded from net family assets as described in 24 CFR 5.603, it will be included in net family assets. If the value of that real property brings the net family assets above \$100,000 (as adjusted for inflation), the family is out of compliance with the asset limitation.

### **Asset Limitation for Residents**

GHURA has discretion with respect to the application of the asset limitation at annual and interim recertification. GHURA may adopt a written policy of total nonenforcement, enforcement, or limited enforcement as well as adopting exception policies.

### **GHURA Policy**

GHURA has adopted a policy of total non-enforcement of the asset limitation for all residents. The asset limitation only applies to initial eligibility determinations.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

### 3-IV.D. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

HUD permits, but does not require GHURA to deny admission for the reasons discussed in this section.

#### **Criminal Activity [24 CFR 960.203(c)]**

GHURA is responsible for screening family behavior and suitability for tenancy. In doing so, GHURA may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety, or welfare of other tenants.

#### **GHURA Policy**

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past ~~five~~ **three** years, the family will be denied admission. In cases where there is a criminal conviction, ~~5~~ **3** years will be considered the start from the date of the conviction.

*Drug-related criminal activity*, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

*Violent criminal activity*, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].

Criminal activity that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)].

Criminal activity that may threaten the health or safety of GHURA staff, contractors, subcontractors, or agents.

Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

Crimes against property (e.g., burglary, larceny, robbery).

Crimes or offenses that impose a financial cost (e.g., vandalism, arson).

Crimes or offenses that involve disturbing the peace.

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past ~~5~~ **3** years. A conviction for such activity will be given more weight than an arrest or an eviction.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

In making its decision to deny assistance, GHURA will consider the factors discussed in Sections 3-IV.E. and 3-IV.F. Upon consideration of such factors, GHURA may, on a case-by-case basis, decide not to deny assistance.

GHURA may deny eligibility for longer than ~~5~~ 3 years or permanently for serious violent crimes or criminal sexual misconduct.

### **Previous Behavior**

HUD authorizes GHURA to deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy.

In the event of the receipt of unfavorable information with respect to an applicant, GHURA must consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-IV.F., GHURA may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, or stalking.

### **GHURA Policy**

GHURA will deny admission to an applicant family if GHURA determines that the family:

- Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past ~~five~~ three years
- Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past ~~five~~ three years which may adversely affect the health, safety, or welfare of other tenants
- Has a pattern of eviction from housing or termination from residential programs within the past five years (considering relevant circumstances)
- Owes rent or other amounts to this or any other PHA or owner in connection with any assisted housing program
- Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent
- Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program
- Has engaged in or threatened violent or abusive behavior toward GHURA personnel
  - *Abusive or violent behavior towards GHURA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

- *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to deny admission, GHURA will consider the factors discussed in Sections 3-IV.E. and 3-IV.F. Upon consideration of such factors, GHURA may, on a case-by-case basis, decide not to deny admission.

GHURA will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

### 3-IV.E. SCREENING

#### Screening for Eligibility

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the Multifamily Housing Program. This authority assists GHURA in complying with HUD requirements and GHURA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records GHURA must require every applicant family to submit a consent form signed by each adult household member [24 CFR § 5.903].

GHURA may not pass along to the applicant the costs of a criminal records check [24 CFR § 960.204(d)].

#### **GHURA Policy**

GHURA will perform criminal background checks through local law enforcement for all adult household members.

If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, GHURA will request a fingerprint card and will request information from the National Crime Information Center (NCIC).

PHAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR § 960.204(a)(4)].

#### **GHURA Policy**

GHURA will use the Dru Sjodin National Sex Offender database to screen applicants for admission.

Additionally, PHA's must ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration requirement in any state [Notice PIH 2012-28; H 2012-11].

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

If GHURA proposes to deny admission based on a criminal record or on lifetime sex offender registration information, GHURA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission [24 CFR § 5.903(f) and 5.905(d)].

### **Obtaining Information from Drug Treatment Facilities [24 CFR § 960.205]**

HUD authorizes PHAs to request and obtain information from drug abuse treatment facilities concerning applicants. Specifically, GHURA may require each applicant to submit for all household members who are at least 18 years of age, and for each family head, spouse, or cohead regardless of age, one or more consent forms signed by such household members that requests any drug abuse treatment facility to inform GHURA whether the drug abuse treatment facility has reasonable cause to believe that the household member is currently engaging in illegal drug use.

*Drug Abuse Treatment Facility* means an entity that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use, and is either an identified unit within a general care facility, or an entity other than a general medical care facility.

*Currently engaging in illegal use of a drug* means illegal use of a drug that occurred recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.

Any consent form used for the purpose of obtaining information from a drug abuse treatment facility to determine whether a household member is currently engaging in illegal drug use must expire automatically after GHURA has made a final decision to either approve or deny the admission of such person.

Any charges incurred by GHURA for information provided from a drug abuse treatment facility may not be passed on to the applicant or tenant.

If GHURA chooses to obtain such information from drug abuse treatment facilities, it must adopt and implement one of the two following policies:

Policy A: GHURA must submit a request for information to a drug abuse treatment facility for all families before they are admitted. The request must be submitted for each proposed household member who is at least 18 years of age, and for each family head, spouse, or cohead regardless of age.

Policy B: GHURA must submit a request for information only for certain household members, whose criminal record indicates prior arrests or conviction for any criminal activity that may be a basis for denial of admission or whose prior tenancy records indicate that the proposed household member engaged in destruction of property or violent activity against another person, or they interfered with the right of peaceful enjoyment of the premises of other residents.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

If GHURA chooses to obtain such information, it must abide by the HUD requirements for records management and confidentiality as described in 24 CFR § 960.205(f).

**GHURA Policy**

GHURA chooses not to obtain information from drug abuse treatment facilities.

**3-IV.F. CRITERIA FOR DECIDING TO DENY ADMISSION**

**Evidence**

**GHURA Policy**

GHURA will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

*Preponderance of the evidence* is defined as 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. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**Consideration of Circumstances [24 CFR § 960.203(c)(3) and (d)]**

HUD authorizes GHURA to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated.

In the event GHURA receives unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). In a manner consistent with its policies, GHURA may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

**GHURA Policy**

In other cases, GHURA will consider the following factors prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property
- The effects that denial of admission may have on other members of the family who were not involved in the action or failure to act
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or a victim of domestic violence, dating violence, or stalking
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

- While a record of arrests will not be used as the sole basis for denial, an arrest may, however, trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, GHURA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. GHURA may also consider:

Any statements made by witnesses or the applicant not included in the police report

Whether criminal charges were filed

Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity

Evidence of criminal conduct, if it indicates a demonstrable risk to safety or property

Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs

- In the case of drug or alcohol abuse, GHURA will consider 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.

GHURA will require the applicant 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.

Further, GHURA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under GHURA's policies.

While the PHA is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, or stalking, the applicant may inform GHURA in accordance with Chapter 9 of this TSP that their status as a victim is directly related to the grounds for the denial. GHURA will request that the applicant provide enough information to GHURA to allow GHURA to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**Removal of a Family Member's Name from the Application [24 CFR § 960.203(c)(3)(i)]**

HUD permits GHURA to impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which warrants denial of admission, to not reside in the unit.

**GHURA Policy**

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. 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 Multifamily Housing unit.

After admission to the program, the family must present evidence of the former family member's current address upon GHURA request.

**Reasonable Accommodation**

If the family includes a person with disabilities, GHURA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

**GHURA Policy**

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, GHURA will determine whether the behavior is related to the disability. If so, upon the family's request, GHURA will determine whether alternative measures are appropriate as a reasonable accommodation. GHURA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission. See Chapter 2 for a discussion of reasonable accommodation.

**Restriction on Reapplication Following Denial**

**GHURA Policy**

For noncriminal denials, the family may not reapply for six months after the denial date.



Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

### **3-IV.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING**

The Violence against Women Act (VAWA) and the HUD regulation at 24 CFR § 5.2005(b) prohibit PHAs from denying admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking.

Definitions of key terms used in VAWA are provided in Chapter 9 this **Administrative Tenant Selection Plan**, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

#### **Notification**

VAWA requires PHAs to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD-5380) and a domestic violence certification form (HUD-5382) at the time the applicant is denied.

#### **GHURA Policy**

GHURA acknowledges that a victim of domestic violence, dating violence, sexual assault, stalking or human trafficking may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under GHURA's policies.

While GHURA is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, or stalking, the applicant may inform GHURA that their status as a victim is directly related to the grounds for the denial. GHURA will request that the applicant provide enough information to GHURA to allow GHURA to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is direct result of their status as a victim.

GHURA will include in its notice of denial the VAWA information described in Chapter 10 Section VI of this Tenant Selection Plan as well as including a copy of the form HUD-5382. GHURA will request in writing that an applicant wishing to claim protection under VAWA notify GHURA within 15 business days.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**Documentation**

***Victim Documentation [24 CFR § 5.2007]***

**GHURA Policy**

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence dating violence, sexual assault or stalking, GHURA will request in writing that the applicant provide documentation supporting the claim in accordance with Chapter 10 Section VI of this Administrative [Tenant Selection Plan](#).

***Perpetrator Documentation***

**GHURA Policy**

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

- A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the multifamily housing unit
- Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

### **3-IV.H. NOTICE OF ELIGIBILITY OR DENIAL**

GHURA will notify an applicant family of its final determination of eligibility in accordance with the policies in [Chapter 4](#).

If a PHA uses a criminal record or sex offender registration information obtained under 24 CFR Part 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before GHURA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR § 5.903(f) and 24 CFR § 5.905(d)].

#### **GHURA Policy**

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, GHURA will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given ~~45~~ [10](#) business days to dispute the accuracy and relevance of the information. If the family does not contact GHURA to dispute the information within that ~~45~~ [10](#)-day period, GHURA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

## Chapter 4 WAITING LIST AND TENANT SELECTION

### INTRODUCTION

When a family wishes to receive housing rental assistance at Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program, the family must submit an application. The application should provide GHURA with information needed to determine the family's eligibility. GHURA places all families that apply for assistance on a waiting list. When a unit becomes available, GHURA must select families from the waiting list in accordance with HUD requirements and GHURA policies as stated in the Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program ~~Administrative~~ Tenant Selection Plan. GHURA is required to adopt a clear approach to accepting applications, placing families on the waiting list, selecting families from the waiting list, and must follow this approach consistently.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that GHURA affirmatively further fair housing goals in the administration of the program. Adherence to the selection policies described in this chapter ensures that GHURA will be in compliance with all relevant civil rights and nondiscrimination requirements, as described in Chapter 2.

This chapter describes HUD and GHURA policies for accepting applications, managing the waiting list and selecting families for assistance. The policies outlined in this chapter are organized into four sections, as follows:

**Part I: The Tenant Selection Plan.** This part describes the required and recommended contents of the HUD tenant selection plan.

**Part II: Marketing.** This part describes marketing and outreach activities to attract tenants with particular attention to Affirmative Fair Housing Marketing Plan.

**Part III: Waiting List Management.** This part includes information related to accepting applications, waiting lists, and record-keeping related to tenant applications.

**Part IV: Selecting Tenants from the Wait List.** This part covers tenant selection and screening criteria. It also discusses applicant interviews, and applicable requirements and procedures when applicants are found to be ineligible, including written notification to applicants of denial of assistance.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **PART I: TENANT SELECTION**

### **4-I.A. OVERVIEW**

This part describes the policies that guide GHURA's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affects placement of the family on the waiting list. This part also describes GHURA's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

### **4-I.B. KEY REGULATIONS**

#### **Tenant Selection Plan**

- 24 CFR § 5.655 Owner Preferences in Selection for a Project or Unit
- 24 CFR §§ 880.104, 881.104, 883.105, 884.118, 886.119, 886.318 (Applicability of 24 CFR, Part 5, and responsibilities of the owner)
- 24 CFR §§ 891.410, 891.610, 891.750 (Selection and admission of tenants)

#### **Income-Targeting**

These regulations are applicable only to the Section 8 project-based program except where otherwise noted.

- 24 CFR § 5.653 Admission – Income-eligibility and income-targeting
- 24 CFR §§ 5.601, 5.603 (Occupancy Requirements for Section 8 Project-based Assistance)

#### **Preferences**

- 24 CFR §§ 5.655, 880.602, 881.601, 883.701, 884.214, 886.132, 886.321, 891.230, 891.750 (Owner preferences/requirements in selection for a project or unit)
- 24 CFR § 236.715 Determination of Eligibility
- 24 CFR § 880.612a, 881.601, 883.701, 884.223a, 886.329a (Preference for occupancy by elderly families)

#### **Required Criminal and Drug Screening Standards**

- 24 CFR Part 5, Subpart I – Preventing Crime in Federally Assisted Housing – Denying Admission and Terminating Tenancy for Criminal Activity and Alcohol Abuse
- 24 CFR Part 5, Subpart J – Access to Criminal Records and Information

#### **Screening for Suitability**

- 24 CFR § 5.655 Owner Preferences in Selection for a Project or Unit

#### **Rejecting Applicants and Denial of Rental Assistance**

- 24 CFR §§ 880.603, 881.601, 883.701, 884.214, 886.121 and 132, 886.321 and 329, 891.410, 891.610, 891.750 (Tenant selection and admission)

#### **Denial of Assistance to Noncitizens and DHS Appeal Process**

- 24 CFR Part 5, Subpart E – Restrictions on Assistance to Noncitizens

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

#### 4-I.C. TENANT SELECTION

HUD requires owners to develop and make public written tenant selection policies and procedures that include descriptions of the eligibility requirements and income limits for admission into the program. The Tenant Selection Plan should include whether there is an elderly restriction preference in the admission, and must cite supporting documentation to ensure nondiscrimination in selection.

#### 4-I.D. INCOME TARGETING [HUD Handbook 4350.3, REV-1, CHG-4 Section 4-25]

HUD requires, PHA's for each project assisted under a contract, for project-based Section 8 assistance, the owner must lease not less than 40% of the dwelling units (assisted under the contract) that become available for occupancy, together with initial certification of in-place families (with the exception of in-place residents at the time of a RAD conversion), be extremely low-income (ELI) families. ELI families are those with annual incomes at or below poverty level or 30 percent of the area median income, whichever number is higher [FR notice 6/25/14]. To ensure this requirement is met, the PHA may skip non-ELI families on the waiting list in order to select an ELI family. The methodology for income-targeting must be described in the tenant selection plan.

To comply with this requirement, GHURA will perform the following:

##### **GHURA Policy**

GHURA will monitor progress in meeting the ELI requirement throughout the fiscal year. ELI families will be selected ahead of other eligible families on an as-needed basis to ensure that the income targeting requirement is met.

GHURA will determine whether the composition of the current waiting list can achieve the income-targeting requirement by simply following the standard waiting list order with no additional procedures.

GHURA will admit only extremely low-income families until the 40% target is met. In chronological order, GHURA will select eligible applicants from the waiting list whose incomes are at or below the extremely low-income limit to fill the first 40% of expected vacancies in the property. **GHURA may skip families on the wait list in order to meet the income target requirements.** Once this target is met, applicants will continue to be selected in the waiting list order.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**Order of Selection**

Selection priority shall be provided to U.S. Citizens and National over non-U.S. and other aliens covered under 141 of the Compact of Free Association between the United States and the Marshall Islands, the Federated States of Micronesia and Palau in accordance with Public Law 114-201 of the Housing Opportunity Through the Modernization Act (HOTMA) of 2016. Order of selection will begin with U.S. Citizens and Nationals according to the date and time of application.

Once all U.S. Citizen and national families have been selected, GHURA will select non-U.S. Citizens and aliens according to date and time of their applications. When selecting families from the waiting list, PHAs are required to use targeted funding to assist only those families who meet the specified criteria, and PHAs are not permitted to skip down the waiting list to family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204 (d) and (e)].

**GHURA Policy**

GHURA will comply with the statutory requirement of Section 113 of HOTMA of 2016. Citizens and Nations of the United States shall have priority over non-U.S. or Aliens covered under Section 141 of the Compact of Free Associations Agreement between the United States and the Marshall Islands, the Federated States of Micronesia, and Palau. GHURA will skip over non-U.S. applicants to select U.S. Citizens/Nationals applicant first. Once all U.S. applicants have been selected from the waiting list, other families will be selected from the waiting list on a first-come, first-served basis according to the date and time of their complete application was received by GHURA or in accordance with targeted funding requirements.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**4-I.E. PREFERENCES**

**[HUD Handbook 4350.3, REV-1, CHG-4, Section 4-6; 24 CFR 5.655(c); Notice H2013-21]**

The PHA must describe the method for selecting applicant families from the waiting list, including the system of admission preference that the PHA will use, if any. PHA's are permitted, but not required to, establish local preferences as long as they are subordinate to any program-specific preferences. Preferences do not guarantee admission. The PHA must inform all applicants about any available preferences and give all applicants the opportunity to show they qualify for available preferences. While HUD rules currently include four types of preferences, Section 8 properties may only implement owner-adopted preferences or state and local preferences. HUD approval is required for any state, local, or residency preferences. Owners may implement owner-adopted preferences outside of those cited in the regulations, such as a preference for homeless families [Notice H 2013-21]. If a homeless preference is adopted, it must be included in this Tenant Selection Plan (TSP), which must then be submitted to HUD for approval.

Assigning preferences to applicants who meet certain criteria is a method intended to provide housing opportunities to applicants based upon household circumstances. Applicants with preferences are selected from the waiting list and receive an opportunity for an available unit earlier than those who do not have a preference.

**GHURA Policy**

There are no preferences adopted for the Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program. Selection of an applicant from the waiting list will be consistent in the order of time and date of application.



Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

#### **4-I.F. SCREENING FOR SUITABILITY**

##### **Screening for Suitability as a Tenant [24 CFR § 960.203(c)]**

GHURA is responsible for the screening and selection of families to occupy Multifamily Housing units. GHURA may consider all relevant information. Screening is important to Multifamily Housing communities and program integrity and to ensure that assisted housing is provided to those families that will adhere to lease obligations.

##### **RENTAL HISTORY**

###### **GHURA Policy**

In order to determine the suitability of applicants, GHURA will examine applicant history for the past three years.

Any one of the following by any household member listed on the application may result in rejection of the application:

- Any history that the applicant has moved out of a residence owing a balance
- Any eviction from a previous residence in the last three years for eviction from federally assisted housing for drug-related criminal activity
- Four or more late payments of rent within a 12-month period from a current or previous residence
- Any one report that the applicant, or their household members or guests, were destructive to the unit or common areas at a current or previous residence
- Any one report that the applicant has or had poor housekeeping habits rising to the level of a health of safety threat from a current or previous residence
- Any one report that the applicant caused or was involved in disturbances at a current or previous residence
- Any one report that the applicant did not abide by the rules and regulations at a current or previous residence

GHURA will also consider the family's history with respect to the following factors:

- Payment of rent and Utilities company references covering the monthly amount of utilities, late payment, and disconnection
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Criminal activity that is a threat to the health, safety, or property of others
- Behavior of all household members as related to the grounds for denial
- Compliance with any other essential conditions of tenancy

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**Resources Used to Check Applicant Suitability**

Housing authorities have a variety of resources available to them for determination of the suitability of applicants. Generally, GHURA should reject applicants who have recent behavior that would warrant lease termination for a Multifamily Housing resident.

**GHURA Policy**

In order to determine the suitability of applicants, GHURA will examine applicant history. Such background checks will include:

*Past Performance in Meeting Financial Obligations, Especially Rent*

PHA and landlord references for the current landlord, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether GHURA/landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. PHAs and landlords will be asked if they would rent to the applicant family again.

Applicants with no rental payment history will also be asked to provide GHURA with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available.

The applicant will also be required to complete a checklist documenting their ability to meet financial obligations.

If previous landlords or the utility company do not respond to requests from GHURA, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

*Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development*

PHA and landlord references for the past five years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

Police records within the past five years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction.

A personal reference will be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available.

#### **4-I.G. PROHIBITED SCREENING CRITERIA**

HUD prohibits GHURA from establishing any of the following types of screening criteria:

Criteria that could be discriminatory as follows:

- Discrimination based on Race, Color, Religion, Sex, National Origin, Age, Familial Status or Disability
- Discrimination against segments of populations

These prohibitions apply to:

- Accepting and processing applications
- Selecting from the waiting list
- Assigning units
- Certifying and recertifying eligibility for assistance; and

All other aspects of continued occupancy.

#### **4-I.H. REJECTING APPLICANTS AND DENIAL OF RENTAL ASSISTANCE**

GHURA may reject applicants for the following:

- The applicant is ineligible for the occupancy as described in Chapter 3
- Is unable to disclose and document SSNs of all household members
- Does not sign and submit verification of consent from or the Authorization for Release of Information (forms HUD-9887 and HUD-9887-A)
- Household has characteristics not appropriate for the specific type of unit available at the time, or the family size is not appropriate to the unit available.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **PART II: MARKETING**

### **4-II.A. KEY REGULATIONS**

- 24 CFR § 1.6 Compliance Information for Title VI of the Civil Rights Act
- 24 CFR § 8.55 Compliance Information for Section 504 of the Rehabilitation Act of 1973
- 24 CFR § 107.25 Nondiscrimination Provisions in Legal Instruments (per Executive Order 11063)
- 24 CFR § 107.30 Recordkeeping Requirements (per Executive Order 11063)
- 24 CFR § 108.40 (Affirmative Fair Housing Marketing Compliance Reviews)
- 24 CFR Part 110 Fair Housing Poster
- 24 CFR § 121.2 Furnishing of data by program participants (per the Fair Housing Act): race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and household applying for, participating in, or benefiting from HUD programs
- 24 CFR Part 200, Subpart M – Affirmative Fair Housing Marketing Regulations
- 24 CFR §§ 880.601, 883.701 (Responsibilities of Owner/Borrower)
- 24 CFR §§ 884.214, 886.121, 886.321 (Marketing)
- 24 CFR §§ 891.400, 891.600 (Responsibilities of the Owner/Borrower)

### **4-II.B. AFFIRMATIVE FAIR HOUSING MARKETING REQUIREMENTS**

Multifamily properties built or rehabilitated since July 1972 must develop and carryout an Affirmative Fair Housing Marketing Plan – Form HUD-935.2A.

HUD requires owners to comply with the requirements of their HUD-approved Affirmative Fair Housing Marketing Plan, designed to promote equal housing choice for all prospective tenants regardless of Race, Color, Religion, Sex, Disability, Familial Status, or National Origin.

### **4-II.C. FAIR HOUSING POSTER**

Owners of HUD-subsidized Multifamily Housing must display the Equal Housing Opportunity poster (i.e., Fair Housing Poster) in accordance with HUD requirements.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **PART III: WAITING LIST MANAGEMENT**

### **4-III.A. KEY REGULATIONS**

#### **Taking Applications for Occupancy**

- 24 CFR § 5.659 Family Information and Verification
- 24 CFR §§ 880.603, 881.601, 883.701, 884.214, 886.121, 886.321, 891.410, 891.610, 891.750 (Selection and admission of tenants)

#### **Creating and Maintaining Waiting Lists**

- 24 CFR § 5.655 Owner Preferences in Selection for a Project or Unit
- 24 CFR §§ 880.603, 881.601, 883.701, 884.214, 886.121 and 132, 886.321 and 329, 891.410, 891.610, 891.750 (Tenant selection and admission)

#### **Record-Keeping**

- 24 CFR §§ 880.603, 881.601, 883.701, 884.214, 886.321, 886.329, 891.410, 841.610, 891.750 (Selection and admission off tenants)
- 24 CFR, Part 1 – Nondiscrimination in Federally Assisted Programs

### **4-III.B. TAKING APPLICATIONS FOR OCCUPANCY**

#### **[24 CFR 880.603(a); HUD Handbook 4350.3, REV-1, CHG-4, Section4-14]**

Any family that wishes to receive assistance in the Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program must apply for admission to the program. HUD permits GHURA to determine the format and content of applications, as well how such applications will be made available to interested families and how applications will be accepted by GHURA. However, GHURA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of GHURA's application.

#### **GHURA Policy**

Depending upon the length of time that applicants may need to wait to receive assistance, GHURA may use a one- or two-step application process.

A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and level of assistance.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, GHURA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

Families may obtain pre-application from GHURA's office during normal business hours Monday thru Friday from 8:00a.m. to 5:00p.m. or request for pre-application by mail, fax, or email when the waiting list is open.

Families may also apply ONLINE at GHURA's website at [www.ghura.org](http://www.ghura.org) when the waiting list is opened. Families without access to such device (computer, smart phone, or tablet) or the internet, or who need assistance applying ONLINE, may visit any of the GHURA offices below during regular office hours (Monday through Friday, 8:00a.m. to 5:00pm) to submit an online application.

GHURA Main Office – 117 Bien Venida Avenue, Sinajana, Guam

Guma Trankilidat Office – 145 Trankilidat St. Tumon, Guam

Public Housing AMP1 Site Office – 23 Paquito St. Toto Gardens, Guam

Public Housing AMP2 Site Office – 10 JCR St. Yona, Guam

Public Housing AMP3 Site Office – Agat Site Base Pagachao Dr. Agat, Guam

Public Housing AMP4 Site Office – 27 Doni Lane Toto Gardens, Guam

GHURA will notify families of the method for submitting pre-applications and how the waiting list will be ordered.

Completed applications must be returned to GHURA by mail, fax, email, electronically or submitting in person during normal business hours. Pre-applications must be complete in order to be accepted by GHURA for processing. If an application is incomplete, GHURA will notify the family of the additional information required.

Completed applications submitted by mail, email, or in person will be dated, time-stamped upon receipt, and referred to Guma Trankilidat Office. Completed ONLINE applications will be dated and time stamped by GHURA's online application system.

Individuals who are unable to complete an application in person may contact GHURA's main office or Guma Trankilidat office, to make special arrangements to complete their application. If the applicant is visually impaired, or has limited English proficiency (LEP), all notices will be made available in a format understandable by the applicant.

Persons with disabilities who require reasonable accommodation in completing an application may call GHURA to make special arrangements. A Telecommunication Device for the Deaf (TDD) is available for the deaf, hard of hearing, or speech-impaired. The TDD telephone number is (671) 472-3701.

The application process will involve two phases. The first phase is the initial application for housing assistance or the pre-application. The pre-application requires the family to provide limited basic information, which will be used to place the family on GHURA's wait list.

The applicant must report any changes in their applicant status including changes in family composition, income, or address. GHURA will annotate the applicant's file and will update their place on the waiting list.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

The second phase is the final determination of eligibility, referred to as the full application. The full application takes place when the family nears the top of the waiting list. GHURA will ensure the verification of all eligibility factors in order to determine the family's final eligibility for admission into the Guam Elderly (Guma Trankilidat) Housing Program.

### 4-III.C. ACCESSIBILITY OF THE APPLICATION PROCESS

#### **Elderly and Disabled Populations**

GHURA must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard PHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). GHURA must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or GHURA must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of GHURA's policies related to providing reasonable accommodations for people with disabilities.

#### **Limited English Proficiency**

PHAs are required to take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency [24 CFR Part 1]. Chapter 2 provides a full discussion on GHURA's policies related to ensuring access to people with limited English proficiency (LEP).

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

#### **4-III.D. PLACEMENT ON THE WAITING LIST**

GHURA must review each complete application received and make a preliminary assessment of the family's eligibility. Areas to be reviewed include requirements for income, household size/composition, student status, special status requirements such as age or disability status if needed, and criminal history. Applicants for whom the waiting list is open must be placed on the waiting list unless GHURA determines the family is ineligible. GHURA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR § 982.206(b)(2)]. Where the family is determined to be ineligible, GHURA must notify the family in writing [24 CFR § 982.201(f)].

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. When the family is selected from the waiting list, GHURA will verify any preferences claimed, if applicable, and determine eligibility and suitability for admission to the program.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list [24 CFR § 982.202(c)].

#### **Ineligible for Placement on the Waiting List**

##### **GHURA Policy**

If GHURA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, GHURA will send written notification of the ineligibility determination within ~~20~~ **10** business days of receiving a complete application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 9).

#### **Eligible for Placement on the Waiting List**

##### **GHURA Policy**

GHURA will send written notification of the preliminary eligibility determination within ~~twenty~~ **ten** (~~20~~ **10**) business days of receiving a complete application.

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.

Applicants will be placed on the waiting list according to any preference(s), if applicable, for which they qualify and the date and time their complete application is received by GHURA.



Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

#### **4-III.E. MATCHING APPLICANTS ON THE WAITING LIST TO AVAILABLE UNITS**

Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program has only 1-bedroom units available for rent. GHURA practices nondiscrimination when matching applicants on the waiting list to available units.

#### **4-III.F. CREATING AND MAINTAINING WAITING LIST [HUD Occupancy Handbook Chapter 4, 4-16]**

GHURA must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how a PHA may structure its waiting list and how families must be treated if they apply for assistance from a PHA that administers more than one assisted housing program.

Receiving the application. Upon receiving the application, GHURA must indicate on the application the date and time received.

The waiting list must contain the following information for each applicant listed:

Applicant name;

Family size;

Date and time of application;

Racial or ethnic designation of the Head of Household

Preferences. GHURA must collect information about the preferences for which the applicant qualifies.

#### **GHURA Policy**

There are no application preferences for the Guam Elderly Housing Program (Guma Trankilidat) Multifamily Housing Program.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

#### 4-III.G. OPENING AND CLOSING THE WAITING LIST

Providing Notice. GHURA must provide notice of closing of the waiting list.

##### **Closing the Waiting Lists**

A PHA is permitted to close the waiting list if it has an adequate pool of applicant families to fill the unit vacancies.

Should the wait for one or more-bedroom size become excessive (exceeding 12 months), the PHA can, at their discretion, close the waiting list and no longer accept applications.

##### **GHURA Policy**

~~GHURA will continue to accept applications for the Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program. GHURA will monitor the waiting list to ensure that the list does not become so long that wait becomes excessive.~~

Should the wait become excessive (exceeding 12 months), GHURA can, at the discretion, close the waiting list and no longer accept applications.

When the waiting list is closed, GHURA will make the public aware of the waiting list closing through the advertising and notification procedures outlined in the HUD approved Affirmative Fair Housing, Marketing Plan (AFHMP), and will state the reasons for closing the waiting list. Should GHURA close the list, GHURA will refuse to take additional applications.

When GHURA reopens the Guam Elderly Housing Program waiting list, it will again notify the public in the manner outlined in the AFHMP. This notification will be extensive and will state how, when, and where to apply and how applications will be added to the waiting list.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## Opening the Waiting Lists

If the waiting list has been closed and GHURA agrees to open and accept applications again, the notice of this action must be announced in a publication likely to be read by potential applicants in the same manner as the notification that the waiting list was closed. The advertising should conform to the outreach activities described in the Approved Affirmative Fair Housing Marketing Plan.

### GHURA Policy

GHURA will announce the reopening of the waiting list, through advertising and notification procedures outlined in the HUD-approved Affirmative Fair Housing Marketing Plan, at least 10 business days prior to the date applications will first be accepted.

The notice will inform applicants of the date, time method, and place applications can be obtained and submitted, how blank applications may be obtained (e.g. from what address, community sites, and websites), all methods by which applications will be accepted (e.g., in person, by phone, by fax, by email), a point of contact who can answer questions, any limitations on who may apply, and any other information the applicant may need to successfully submit the application.

~~To reach persons who cannot or do not read newspapers, GHURA will initiate contact through village mayors, community service personnel and non-profit organizations. GHURA will also try to utilize public service announcements.~~

To ensure that public notices broadly reach potential applicants in the communities, GHURA will distribute public notices to local community-based organizations, such as social service agencies and religious institutions; distribute the notice online through GHURA's website or social media platforms and other online platforms for local housing news; and make use of any local newspapers of general circulation, minority media, and other suitable areas.

GHURA will also provide public notice by publishing the relevant information in suitable media outlets including, but not limited to:

- Newspapers, including:
  - The Guam Daily Post
  - Guam Pacific Daily News
  - Facebook or other social media links
- All Radio and media stations on island
- Through Non-profit Organizations and non-profit and government services provider on island.

GHURA will communicate the status of program availability to their service providers in the community and advise them of housing eligibility factors and guidelines so that they can make proper referral of their clients to the program.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## DETERMINING AN APPLICANT'S PRELIMINARY ELIGIBILITY

GHURA will make a preliminary assessment to determine eligibility before putting an applicant on the waiting list to ensure the following:

There are no obvious factors that would make the applicant ineligible.

The family may be eligible, but the unit available is not of appropriate size for the household.

To avoid performing the eligibility determination twice before admitting the applicant to the property.

### 4-III.H. PLACING FAMILIES WITH DISABLED FAMILY MEMBERS [HUD Occupancy Handbook Chapter 4, 4-17]

An owner must not skip over a family that has reached to the top of the list and has indicated a need for certain unit accommodations because of a disability.

#### **GHURA Policy**

GHURA will not skip over a family that has reached to top of the list that needs certain unit accommodations due to a disability. GHURA will notify the household when a unit becomes available regardless if it has accessibility features. Based on the requirements of Section 504, the family will be given the opportunity to decide whether the unit meets their needs. The family may accept a standard unit and request some modifications as a reasonable accommodation

GHURA will take reasonable and nondiscriminatory steps to maximize the use of accessible units by eligible individuals whose disability requires the accessibility features of a particular unit. Families who is in need or who has a member who needs the accessibility feature of a unit will be the priority to occupy accessible units over families with no disabled family members.

- GHURA will first offer the unit to an individual with disabilities currently residing in a non-accessible unit who requires the features of the unit.
- If no current tenants require the special features, GHURA will then offer the unit to the next qualified applicant on the waiting list. Priority will first be offered to U.S. Citizen and national applicant needing the accessible features. Second, non-U.S. Citizen applicant needing the accessible features will then be selected from the waiting list.
- *Lastly*, when there is no current tenant or a qualified applicant which requires the features of an available accessible unit, GHURA will offer the unit to the next non-disabled U.S. Citizen or national applicant, by date and time followed by non-U.S. Citizen applicant.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

#### 4-III.I. DOCUMENTING CHANGES TO WAITING LISTS

GHURA will maintain changes to the waitlist that document applicant additions, selections, withdrawals, and rejections. The purpose of maintaining this documentation is to provide HUD and RD Reviewers, or independent Reviewers the following:

- Applicant information on the waitlist
- Confirmation on whether an applicant was housed at the appropriate time
- To document actions taken with respect to the family's application for tenancy.

#### 4-III.J. UPDATING WAITING LIST INFORMATION

[HUD Handbook 4350.3, REV-1, CHG-4, Section 4-19]

##### Reporting Changes in Family Circumstances

Whenever a change is made in the waiting list, an action is taken, or an activity specific to an applicant occurs, a notation must be made on the waiting list.

##### GHURA Policy

At the time of initial application, GHURA will advise families in writing that they are responsible for notifying GHURA in writing when their circumstances, mailing address, phone numbers, or other means of contact change.

GHURA will require applicants to update their contact information every six months by contacting the property in writing, or by other method requested at initial application by applicants with disabilities. If no written update is received by the designed due date, GHURA will remove the applicant from the waiting list.

Anytime contact is made, an action is taken, or any activity occurs that is specific to an application, a notation will be made on the waiting list.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**Purging the Waiting List**

HUD requires PHAs to establish policies to use when removing applicant names from the waiting list.

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to a PHA request for information or updates because of the family member's disability, the PHA must reinstate the applicant family to their former position on the waiting list.

**GHURA Policy**

The waiting list will be updated every six months to ensure that all applicants and applicant information is current and timely.

To update the waiting list, GHURA will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that GHURA has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response may be via telephone or in writing and may be delivered in person, by mail, or by fax. Responses should be received within the designated month GHURA indicates in its letter.

If the family fails to respond within the designated time period, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have to respond within a designated time period set by GHURA from the date the letter was re-sent.

If a family is removed from the waiting list for failure to respond, the Executive Director or his/her designee may reinstate the family if he or she determines the lack of response was due to GHURA error, or to circumstances beyond the family's control.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

#### 4-III.K. REMOVING NAMES FROM THE WAITING LIST

##### Removal from the Waiting List

###### **GHURA Policy**

If at any time an applicant family is on the waiting list, GHURA determines that the family is not eligible for assistance (see Chapter 3, Part IV); the family will be removed from the waiting list.

If a family is removed from the waiting list because GHURA has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding GHURA's decision. [24 CFR part 5, 24 CFR 891.410(e), 891.610(e)]

#### 4-III.L. REINSTATING APPLICANTS TO THE WAITING LIST

If an applicant family is removed from the waiting list and subsequently GHURA determines that an error was made in removing the applicant (e.g., the incorrect address was used in sending mail to the applicant, the applicant did not respond to information or updates because of disability), the applicant must be reinstated at the original place on the waiting list.

#### 4-III.M. RECORD-KEEPING

GHURA will retain current application as long as the family's status on the waiting list is active. For family's whose names have been removed from the waitlist, GHURA will retain documentation for three years. Files will be kept secure so that personal information remains confidential.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **PART IV: SELECTING TENANTS FROM THE WAITING LIST**

### **4-IV.A. GENERAL**

As units become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

The order in which families receive assistance from the waiting list is based on the selection method chosen by GHURA. GHURA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to GHURA's selection policies.

### **4-IV.B. APPLICANT INTERVIEWS**

#### **NOTIFICATION OF SELECTION**

When a family has been selected from the waiting list, GHURA must notify the family.

##### **GHURA Policy**

GHURA will notify the family by first class mail when it is selected from the waiting list.

The notice will inform the family of the following:

- Date, time and location of the scheduled application interview, including any procedures for rescheduling the interview;

- Who is required to attend the interview;

- Documents that must be provided at the interview to document the legal identity of household member, including information about what constitutes acceptable documentation;

- Other documents and information that should be brought to the interview.

If a notification letter is returned to GHURA with no forwarding address, the family will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any known alternate address.



Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **INTERVIEW**

HUD recommends that housing authorities obtain the information and documentation needed to make an eligibility determination through a private interview. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if GHURA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by GHURA [Notice PIH 2010-3].

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability.

### **GHURA Policy**

Families selected from the waiting list are required to participate in an eligibility interview.

The head of household, spouse/co-head and all other adult family members will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/co-head may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to GHURA.

At the initial interview documents will be requested. The second meeting will be conducted only if the head of household or spouse/co-head provides appropriate documentation of legal identity. If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

Pending disclosure and documentation of social security numbers, GHURA will allow the family to retain its place on the waiting list for ~~60~~ ***ninety (90) days***. If not all household members have disclosed their SSNs at the next time GHURA is selecting applicants, GHURA will proceed to the next eligible applicant family on the waiting list.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, GHURA will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English. For limited English proficient (LEP) applicants, GHURA will provide translation services in accordance with GHURA's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact GHURA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, GHURA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without GHURA approval will be denied assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.

### **COMPLETING THE APPLICATION PROCESS**

GHURA must verify all information provided by the family. Based on verified information, GHURA must make a final determination of eligibility (see Chapter 3) and must confirm that the family qualified for any special admission, targeted admission, or selection preference that affected the order in which the family was selected from the waiting list.

#### **GHURA Policy**

If GHURA determines that the family is ineligible, GHURA will send written notification of the ineligibility determination within 20 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 10).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. targeted funding, extremely low-income), the family will be returned to its original position on the waiting list. GHURA will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

If GHURA determines that the family is eligible to receive assistance, GHURA will invite the family to attend a briefing in accordance with the policies in Chapter 5.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

#### **4-IV.C. APPLYING INCOME TARGETING REQUIREMENTS IN SECTION 8 PROPERTIES**

For each project assisted under a contract for project-based Section 8 assistance, the owner must lease not less than 40% of the dwelling units (assisted under the contract) that become available for occupancy in any project fiscal year to extremely low-income families. The methodology for income-targeting must be described in the tenant selection plan.

To comply with this requirement, GHURA will perform the following:

##### **GHURA Policy**

GHURA will determine whether the composition of the current waiting list can achieve the income-targeting requirement by simply following the standard waiting list order with no additional procedures.

GHURA will admit only extremely low-income families until the 40% target is met. In chronological order, GHURA will select eligible applicants from the waiting list whose incomes are at or below the extremely low-income limit to fill the first 40% of expected vacancies in the property. Once this target is met, applicants will continue to be selected in the waiting list order.

#### **4-IV.D. VERIFICATION OF PREFERENCES**

Preferences claimed by applicants must be verified. Owners may verify qualifications for preferences at the time the application is submitted or when a unit becomes available.

##### **GHURA Policy**

There are no application preferences for the Guam Elderly (Guma Trankilidat) Multifamily Housing Program.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

#### **4-IV.E. IMPLEMENTING SCREENING REVIEWS**

Screening activities should occur prior to approval of tenancy and should be applied consistently.

##### **GHURA Policy**

GHURA may review and screen the following:

##### Credit History

Previous landlords – Determine if the applicant paid rent on time

##### Rental History

Cooperation with recertification procedures

Violations of house rules

Violations of the lease

History of disruptive behavior

Poor housekeeping practices

Previous evictions for lease violations

Termination of assistance for fraud; or

Conviction for the illegal manufacture, distribution, or use of controlled substances.

##### Housekeeping

Poor housekeeping habits

##### Drug Abuse and other Criminal Activity

Obtain criminal records received from the law enforcement agency

#### **4-IV.F. ENSURING THAT SCREENING IS PERFORMED CONSISTENTLY**

To ensure that screening is performed consistently, GHURA establishes the following procedures:

- Use consistent staffing to reduce inconsistencies that occur due to interpretation of policies.
- Develop instructions for staff who are conducting screening activities to ensure consistency
- Use standard forms
- Use objective criteria when interviewing
- Follow formal, written process for collecting information

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**4-IV.G. VERIFYING THE NEED FOR ACCESSIBLE UNITS**

When an applicant requests for an accessible unit or a unit preference, GHURA may conduct inquiries to:

Verify that the applicant is qualified for the unit, which is only available to persons with a disability or to persons with a particular type of disability

Verify that the applicant needs the features of the unit as an accommodation to his or her disability.

Verify that the applicant is qualified to receive a priority on the waiting list available to persons with a disability or to persons with a particular type of disability.

## Chapter 5 DETERMINING INCOME AND CALCULATING RENT

### INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's payment and the PHA's subsidy. The PHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and PHA policies related to these topics in three parts as follows:

**Part I: Determining Annual Income.** HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and PHA policies for calculating annual income are found in Part I.

**Part II: Determining Adjusted Income.** Once annual income has been established HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and PHA policies for calculating adjusted income are found in Part II.

**Part III: Verification and Calculating Tenant Rent.** This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances (if applicable), and the methodology for determining PHA subsidy and required family payment.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## PART I: ANNUAL INCOME

### 5-I.A. OVERVIEW

The general regulatory definition of *annual income* shown below is from 24 CFR 5.609.

5.609 Annual income.

(a) Annual income means all amounts, monetary or not, which:

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- (3) Which are not specifically excluded in paragraph [5.609(c)].
- (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 5-1)
- Annual Income Exclusions (Exhibit 5-2)
- Treatment of Family Assets (Exhibit 5-3)
- Earned Income Disallowance for Persons with Disabilities (Exhibit 5-4)
- The Effect of Welfare Benefit Reduction (Exhibit 5-5)

Sections 5-I.B. and 5-I.C. discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in Section 5-I.D.). Verification requirements for annual income are discussed in Chapter 7.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**5-I.B. HOUSEHOLD COMPOSITION AND INCOME**

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

<b>Summary of Income Included and Excluded by Person</b>	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Employment income above \$480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

**Temporarily Absent Family Members**

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

**GHURA Policy**

Generally, an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.



Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**Absent Students**

**GHURA Policy**

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to GHURA indicating that the student has established a separate household or the family declares that the student has established a separate household.

**Absences Due to Placement in Foster Care**

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

**GHURA Policy**

If a child has been placed in foster care, GHURA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

**Absent Head, Spouse, or Cohead**

**GHURA Policy**

An employed head, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member, this includes military assignments no longer than 24 months.

**Absences due to Medical Care**

**GHURA Policy**

A family member absent from Guam for medical care may continue to be considered part of the family on a case-by-case basis as determined by GHURA.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**Family Members Permanently Confined for Medical Reasons**

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted.

**GHURA Policy**

GHURA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualify as an elderly person or a person with disabilities.

**Joint Custody of Dependents**

**GHURA Policy**

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 51 percent or more of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, GHURA will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## 5-I.C. ANTICIPATING ANNUAL INCOME

The PHA is required to count all income “anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date” [24 CFR 5.609(a) (2)]. Policies related to anticipating annual income are provided below.

### **Basis of Annual Income Projection**

The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the PHA to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- The PHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

PHAs are required to use HUD’s Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].

HUD allows PHAs to use pay-stubs to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the PHA does not determine it is necessary to obtain additional third-party data.

### **GHURA Policy**

When EIV is obtained and the family does not dispute the EIV employer data, GHURA will use current tenant-provided documents to project annual income. When the tenant- provided documents are pay stubs, GHURA will make every effort to obtain current and consecutive pay stubs dated within the last 60 days.

The GHURA will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

If EIV or other UIV data is not available,

If the family disputes the accuracy of the EIV employer data, and/or

If GHURA determines additional information is needed.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

In such cases, GHURA will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how GHURA annualized projected income. When GHURA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), GHURA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to GHURA to show why the historic pattern does not represent the family's anticipated income.

### **Known Changes in Income**

If GHURA verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

**Example:** An employer reports that a full-time employee who has been receiving \$8/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the reexamination. In such a case GHURA would calculate annual income as follows:  $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks})$ .

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases GHURA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if GHURA's policy on reexaminations does not require interim reexaminations for other types of changes.

When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.

EIV quarterly wages will not be used to project annual income at an annual or interim reexamination.

### **Projecting Income**

In HUD's EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual income.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## 5-I.D. EARNED INCOME

### Types of Earned Income Included in Annual Income

#### *Wages and Related Compensation*

The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income [24 CFR 5.609(b)(1)].

#### **GHURA Policy**

For persons who regularly receive bonuses or commissions, GHURA will verify and then average amounts received for the year preceding admission or reexamination. The family may provide, and the GHURA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, GHURA will count only the amount estimated by the employer. The file will be documented appropriately.

#### *Some Types of Military Pay*

All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

### Types of Earned Income Not Counted in Annual Income

#### *Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]*

This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days [Notice PIH 2009-19].

#### **GHURA Policy**

Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

#### *Children's Earnings*

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income [24 CFR 5.609(c)(1)]. (See Eligibility chapter for a definition of *foster children*.)

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

***Certain Earned Income of Full-Time Students***

Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c)(11)]. To be considered “full-time,” a student must be considered “full-time” by an educational institution with a degree or certificate program.

***Income of a Live-in Aide***

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

***Income Earned under Certain Federal Programs***

Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c)(17)], including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. §§ 5044(g), 5058)
- Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. § 2801)
- Awards under the federal work-study program (20 U.S.C. § 1087)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. § 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. § 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. § 2931)

***Resident Service Stipend***

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed \$200 per individual per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA’s governing board. No resident may receive more than one such stipend during the same period of time [24 CFR 5.609(c)(8)(iv)].

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

***State and Local Employment Training Programs***

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

**GHURA Policy**

GHURA defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period to time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, (3) a paid apprenticeship or (4) basic education” [Safe harbor Notice PIH 98-2, p. 3].

GHURA defines *incremental earnings and benefits* as the difference between: (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program, and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [Safe harbor Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, GHURA will use as the pre-enrollment income the total annualized amount of the family member’s welfare assistance and earnings reported on the family’s most recently completed HUD-50059.

End of participation in a training program must be reported in accordance with GHURA's interim reporting requirements.

***HUD-Funded Training Programs***

Amounts received under training programs funded by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, Section 3 and other grant funds received from HUD.

**GHURA Policy**

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

### ***Earned Income Tax Credit***

Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. § 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

### ***Earned Income Disallowance***

The earned income disallowance for persons with disabilities is discussed in Section 5-I.E. below.

### **5-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617; Streamlining Final Rule Federal Register 3/8/16; Notice H 2023-10]**

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating on the program as of December 31, 2023, or before; no new families may be added on or before January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and the PHA policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 5.617 is included as Exhibit 5-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

### **Eligibility**

This disallowance applies only to individuals in families already participating in the program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].



## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

- New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.

### **Calculation of the Disallowance**

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

#### **GHURA Policy**

GHURA defines *prior income* or *prequalifying income*, as the family member's last certified income prior to qualifying for the EID.

The family member's prior, or prequalifying, income remains constant throughout the period that he or she is receiving the EID.

### ***Initial 12-Month Exclusion***

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

#### **GHURA Policy**

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

### ***Second 12-Month Exclusion and Phase-In***

During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

#### **GHURA Policy**

During the second 12-month exclusion period, the PHA will exclude 100 percent of any increase in income attributable to new employment or increased earnings.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

***Lifetime Limitation***

The EID has a ~~four~~ two-year (24-month) lifetime maximum. The ~~four~~ two-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 24 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing, Section 8 assistance, Multifamily Housing, or if there are breaks in assistance.

**GHURA Policy**

During the 48 24-month eligibility period, GHURA will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **5-I.F. BUSINESS INCOME AND SELF-EMPLOYMENT [24 CFR 5.609(b)(28); Notice H 2023-10]**

Annual income includes “the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family” [24 CFR 5.609(b)(2)].

### **Business Expenses**

Net income is “gross income less business expense”.

#### **GHURA Policy**

To determine business expenses that may be deducted from gross income, GHURA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

### **Independent Contractors**

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b) (24)].

An independent contractor is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603 (b)].

### **Business Expansion**

HUD regulations do not permit the PHA to deduct from gross income expenses for business expansion.

#### **GHURA Policy**

*Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

***Capital Indebtedness***

HUD regulations do not permit the PHA to deduct from gross income the amortization of capital indebtedness.

**GHURA Policy**

*Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means GHURA will allow as a business expense interest, but not principal, paid on capital indebtedness.

***Negative Business Income***

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

***Withdrawal of Cash or Assets from a Business***

HUD regulations require the PHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

**GHURA Policy**

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of \$2,000 to help a business get started, GHURA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

**Co-owned Businesses**

**GHURA Policy**

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## 5-I.G. ASSETS INCLUSIONS AND EXCLUSIONS [24 CFR 5.609 (b)(3)]

### Overview

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice H 2023-10; Notice H 2023-10].

The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 5-3 provides the regulatory definition of *net family assets*.

There is no asset limitation for participants in the program. However, HUD requires that the PHA include in annual income the “interest, dividends, and other net income of any kind from real or personal property” [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the PHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 5-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 5-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset.

### **GHURA Policy**

At annual and interim reexamination, GHURA adopts total non-enforcement of asset limitation for families currently leased under the Project-Based Section 8 Multifamily housing program. However, GHURA will comply in the manner to HUD requirements of 24 CFR 5.603 to calculate net family assets as part of the process of calculating annual income in accordance with 24 CFR 5.609.

# Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

## General Policies

### *Income from Assets*

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the PHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the PHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

### **GHURA Policy**

Anytime current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to GHURA to show why the asset income determination does not represent the family's anticipated asset income.

### *Valuing Assets*

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice H 2023-10].

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 real property, savings, stocks, bonds, and other forms of capital investment.

The calculation of asset income sometimes requires the PHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

The cash value of real property or other assets with negative equity would be considered \$0 for the purpose of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice H 2023-10].

### **GHURA Policy**

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions such as settlement costs and transfer taxes.

### ***Lump-Sum Additions to Net family Assets [24 CFR 5.609(b)(24(viii); Notice H 2023-10]***

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winning as a type of nonrecurring income.

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. The PHA must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 8. This reexamination of income must take place as soon as the lump sum is added to the family's assets unless the addition takes place in the last three months of the family income certification period and the PHA chooses not to conduct the examination.

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see Sections 5-I.H and 5-I.I.

### **GHURA Policy**

Any lump-sum receipts are only counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIP FAQs]. For example, if the family receives a \$1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward the net family assets.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

### ***Imputing Income from Assets*** [24 CFR 5.609(a)(2); Notice H 2023-10]

When net family assets exceed \$50,000 (adjusted annually by HUD), the PHA may not rely on self-certification. If actual returns can be calculated, the PHA must include actual income from the assets on the Form HUD-50059 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, the PHA must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). If the PHA can compute actual income from some but not all assets, the PHA must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of \$0 (such as a no-interest bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as a non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but no other (e.g. due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.

### ***Determining Actual Anticipated Income from Asset***

It may or may not be necessary for the PHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

### ***Withdrawal of Cash or Liquidation of Investments***

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement fund.



Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

***Jointly Owned Assets*** [Notice H 2023-10]

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes “amounts derived (during the 12-month period) from assets to which any member of the family has access.”

For assets owned jointly by the family and one or more individuals outside of the assisted family, the PHA must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion’s value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

**GHURA Policy**

If an asset is owned by more than one person and any family member has unrestricted access to the asset, GHURA will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, GHURA will include a portion of the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, GHURA will portion the asset evenly among all owners.

***Assets Disposed of for Less than Fair Market Value*** [24 CFR 5.603(b)]

HUD regulations require the PHA to include the value of any business or family asset that was disposed of for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of the application or reexamination, as applicable, in excess of the consideration received for the asset, except as noted below.

An asset moved to retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice 2023-10].

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

### ***Minimum Threshold***

HUD states any asset that is disposed of for less than its full value is counted, including cash gifts as well as property. However, rule applies only when the fair market value of all assets given away during the past two years exceeds the gross amount received by more than \$1,000. [HUD Occupancy Handbook, Ch. 5, p.5-38].

### **GHURA Policy**

GHURA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in nonrevocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

### ***Separation or Divorce***

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

### **GHURA Policy**

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

### ***Foreclosure or Bankruptcy***

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

### ***Asset Owned by a Business Entity***

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

***Family Declaration***

**GHURA Policy**

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. GHURA may verify the value of the assets disposed of if other information available to GHURA does not appear to agree with the information reported by the family.

***Checking and Savings Accounts [Notice H 2023-10]***

HUD considers bank accounts as non-necessary items of personal property. Whether or not non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

When combined value of net family assets is greater than \$50,000, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.

When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the assets itself is included or excluded from net family assets, unless that income is specifically excluded.

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

**GHURA Policy**

In determining the value of a checking and savings accounts, GHURA will use the current/latest balance.

In determining the anticipated income from an interest-bearing checking or savings account, GHURA will use the current/latest balance of the account by the current rate of interest paid on the account.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

### Case scenario [Notice H 2023-10]:

Family owns a checking account with \$3,500 that earns 0 percent interest. He also has a savings account with a balance of \$10,000 for which family expects to earn \$300 in annual interest. Family has no other assets. Because those assets are classified as non-necessary personal property, and their combined value of \$13,500 does not exceed \$50,000, the combined value of all non-necessary personal property is excluded from the calculation of net family assets. The total value of the family assets is \$0, and \$300 is included in annual income.

Total value of assets: \$3,500 + \$10,000 = \$13,500

Net family assets: \$0.00 (total value of assets is less than \$50,000, therefore the value is excluded from net family assets).

Result: Actual income from assets (must be included in the calculation of annual income for the family): \$300 (\$0 from checking account + \$300 from savings account)

### ***Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds***

HUD considers financial investments such as stocks, and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

When the combined value of net family assets is greater than \$50,000, as adjusted by inflations, financial investments such as stocks and bonds are considered part of the net family assets. In this case, the value of the family's financial investments such as stocks and bonds would be counted toward net family assets.

When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets, in this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g. due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is \$0.

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

### **GHURA Policy**

GHURA included interest or dividends earned by investments accounts as actual income from assets even when the earnings are reinvested.

The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

In determining the market value of an investment account, GHURA will use the value of the account on the most recent investment report.

### ***Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i); Notice H 2023-10]***

All assets are categorized as either real property (e.g. land, a home) or personal property.

Personal property includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

HUD defines necessary personal property as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all non-necessary items of personal property is only included in annual income when the combined total value exceeds \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

While not an exhaustive list, the following table from Notice H 2023-10 provides examples of necessary and non-necessary personal property.

**Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan**

Necessary Personal Property	Non-Necessary Personal Property
<p>Cars(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter)</p> <p>Furniture, carpets, linens, kitchenware</p> <p>Common appliances</p> <p>Common electronics (e.g. radio, television, DVD player, gaming system)</p> <p>Clothing</p> <p>Personal effects that are not luxury items (e.g., toys, books)</p> <p>Wedding and engagement rings</p> <p>Jewelry used in religious/cultural celebrations and ceremonies</p> <p>Religious and cultural items</p> <p>Medical equipment and supplies</p> <p>Health care-related supplies</p> <p>Musical instruments used by the family</p> <p>Personal computers, phones, tablets, and related equipment</p> <p>Professional tools of trade of the family (e.g., professional books)</p> <p>Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities</p> <p>Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)</p>	<p>Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs))</p> <p>Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds)</p> <p>Recreational boat/watercraft</p> <p>Expensive jewelry without religious or cultural value, or which does not hold family significance</p> <p>Collectibles (e.g., coins/stamps)</p> <p>Equipment/machinery that is not used to generate income for a business</p> <p>Items such as gems/precious metals, antique cars, artwork, etc.</p>

**GHURA Policy**

In determining the value of non-necessary personal property, GHURA will use the family's estimate of the value. GHURA may obtain an appraisal if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

***Equity in Real Property or Other Capital Investments***

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset.

Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- The value of a home currently being purchased with assistance under the program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b)]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives
- Equity in real property when a family member's main occupation is real estate. This real estate is considered a business asset, and income related to this asset will be calculated as described in Section 5-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

**GHURA Policy**

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless GHURA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

### **Trusts [24 CFR 5.6009(b)(2) and 5.603(b)(4); Notice H 2023-10]**

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

The following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the cost of health and medical care expenses for a minor.

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

#### ***Revocable Trusts***

A revocable trust is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

The value of revocable trust that are not under the control of the family are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not “own” the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the accounts trustee. If this is the case, then distributions from the trust are treated as follows:

- All distributions from the trust’s principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust’s principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in net family assets.

If the value of the trust is considered part of the family’s net assets, then distributions from the trust are not considered income to the family. The PHA must count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds \$50,000 (as that amount is updated for inflation), as imputed returns, as applicable.

#### ***Nonrevocable Trusts***

When the creator sets up an irrevocable trust, the creator has no access to the funds in the account. Irrevocable trusts not under the control of any member of the family or household are not assets. Typically, special needs trusts are considered irrevocable. The value of the trust is not included in net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603.(b)(4)]. Where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g.,



## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

### ***Personal Property***

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset.

#### **GHURA Policy**

In determining the value of personal property held as an investment, GHURA will use the family's estimate of the value. GHURA may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser, but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

#### **GHURA Policy**

Necessary personal property consists of only those items not held as an investment, and may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

### ***Life Insurance***

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy is included in the calculation of the value of the family's assets. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**Asset Exclusions [24 CFR 5.603(b); Notice H 2023-10]**

The following are required exclusions, from the calculations, of net family assets:

- The value of necessary items of personal property. (See Ch.5-I.G. Necessary and Non-Necessary Personal Property) [Notice H 2023-10];
- The value of all non-necessary items of personal property with a total combined value of \$50,000 or less, annually adjusted for inflation (See Ch. 5-I.G. Necessary and Non-Necessary) [Notice H 2023-10];
- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)];
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)];
  - Real property as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
  - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice H 2023-10].
- 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 arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any “baby bond” account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(viii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR Part 982;
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi);
- The full amount of assets held in an irrevocable trust [Notice H 2023-10]; and
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice H 2023-10].

### **5-I.H. PERIODIC PAYMENTS [Notice H 2023-10]**

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

#### **Periodic Payments Included in Annual Income**

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR §§ 5.609(b) (4) and (b) (3)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR § 5.609(b)(4)].

#### **Lump-Sum Payments for the Delayed Start of a Periodic Payment**

Most lump-sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump-sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [24 CFR 5.609(b)(16)].

#### **Social Security Benefits [Notice H 2023-10]**

The PHA is required to use the gross benefit amount to calculate annual income from Social Security Benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice H 2023-10]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

**GHURA Policy**

Annual income includes "all amounts received", not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount unit the overpayment is paid in full, GHURA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

**Retirement Accounts [24 CFR 5.609(b)(26); Notice H 2023-10]**

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

**Periodic Payments Excluded from Annual Income**

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR § 5.609(c) (2)]. Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [Notice PIH 2008-30].

**GHURA Policy**

GHURA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency. [HUD Occupancy HB Ch. 5, pg. 5-9]

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR § 5.609 (c) (16)].
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. § 1626 (c)) [24 CFR § 5.609 (c) (17)].
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. § 9858 (q)) [24 CFR § 5.609(c) (17)].
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. § 32(j)) [24 CFR § 5.609(c) (17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump-sums received as a result of delays in processing Social Security and SSI payments (see Section 6-I.J.) [24 CFR § 5.609(b) (4)].
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [FR Notice 11/24/08].

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

### 5-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in Section 5-I.H and the discussion of lump-sum receipts in Section 5-I.G.)

### 5-I.J. WELFARE ASSISTANCE

#### **Overview**

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

#### **Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]**

The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 5-5. The requirements are summarized below. This rule applies only if a family was receiving assistance at the time the sanction was imposed.

#### ***Covered Families***

The families covered by 24 CFR § 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)]

#### ***Imputed Income***

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the PHA must include in annual income “imputed” welfare income. The PHA must request that the welfare agency inform the PHA when the benefits of a participant family are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR § 5.615(b)(2)].

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

*Offsets*

The amount of the imputed income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR § 5.615(c) (4)].

**5-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR § 5.609(b)(7)]**

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

**Alimony and Child Support**

The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

Annual income includes “all amounts received”, not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family’s child-support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency order [Notice H 2023-10].

**GHURA Policy**

GHURA will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement.

GHURA will count court-awarded amounts for alimony and child support unless the family certifies and GHURA verifies that the payments are not being made.

In order to verify that payments are not being made, GHURA will review child support payments over the last three months.

If payments are being made regularly, GHURA will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period less than 12 months, GHURA will average all payments that have been made.

At new admission or interim recertification, if any lump sum payments were made in the past 12 months, GHURA will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.

If GHURA determines and can appropriately verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income.

If GHURA determines that it is likely that the family will receive a similar payment and can appropriately verify it, the amount will be included when projecting annual income.

If no payments have been made in the past three months and there are no lump sums, GHURA will not include alimony or child support in annual income.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**5-I.L. NONRECURRING INCOME [24 CFR 5.069(b)(24) and Notice H 2023-10]**

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. The PHA may accept a self-certification from the family stating that the income will not be repeated in the coming year.

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, 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 exclusion 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.

Income amount excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Non-recurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)];
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)];
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)];
- Gifts for the holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)];
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHA's are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice H 2023-10]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.09(b)(24)(vii)].

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

### **5-I.M. STUDENT FINANCIAL ASSISTANCE [24 CFR § 5.609 (b)(9)]**

The regulations distinguish between two categories of student financial assistance paid to both fulltime and part-time students.

#### **Types of Assistance**

Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)].

Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs
  - The Higher Education Tribal Grant
  - The Tribally Controlled Colleges or Universities Grant Program

Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the Federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)]. Actual covered costs are defined as the actual costs of:

- Tuition, books, and supplies;
  - Including supplies and equipment to support students with learning disabilities or other disabilities
- Room and board; and
- Other fees required and charged to a student by the education institution.



## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other student financial assistance must be expressly:

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the education institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the PHA.

The financial assistance must be a grant or scholarship received from:

- The Federal government;
- A state, tribal, or local government;
- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

### **Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice H 2023-10]**

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**GHURA Policy**

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, GHURA will exclude the full amount of the assistance received under Title IV from the family's annual income. GHURA will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, GHURA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). GHURA will then subtract the total amount of the student's financial assistance from the student's actual covered costs. GHURA will include any amount of financial assistance in excess of the student's actual covered costs in the family's annual income.

**Example 1**

- Actual covered costs: \$20,000
- Other student financial assistance: \$25,000
- Excluded income: \$20,000 (\$25,000 in financial Assistance - \$20,000 in actual covered costs)
- Included income: \$5,000

When a student receives assistance from both Title IV of the HEA and from other sources, GHURA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance" would be excluded from income.

**Example 2**

- Actual covered costs: \$25,000
- Title IV HEA assistance: \$26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: \$5,000
- Excluded income: The entire Title IV HEA assistance of \$26,000
- Included income: All other financial assistance of \$5,000

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, GHURA will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

**Example 3**

- Actual covered costs: \$22,000
- Title IV HEA assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$7,000 (\$22,000 in actual covered costs - \$15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: \$5,000
- \$7,000 in remaining actual covered costs - \$5,000 in other financial assistance
- Excluded income: \$15,000 entire amount of the Title IV HEA Assistance + \$5,000 in other financial assistance
- Included income: \$0

**Example 4**

- Actual covered costs: \$18,000
- Title IV HEA Assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$3,000 (\$18,000 in actual covered costs - \$15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: \$5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by \$2,000 (\$3,000 in actual covered costs - \$5,000 in other financial assistance).
- Included income: \$2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

### **5-I.N. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b)]**

Other exclusions contained in 24 CFR 5.609(b) that have not been discussed earlier in this chapter include the following:

- Amounts received by the family that specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(b)(12)(ii)]
- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income [Notice H 2023-10]
- 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 arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice H 2023-10].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice H 2023-10].

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of annual income in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice H 2023- 10.
- Replacement housing "gap" payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments [24 CFR 5.609(b)(23)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)]
- Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii)]
- Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii)]

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)]
- Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(b)(15)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(18)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(b)(19)]
- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary [24 CFR 5.609(b)(22)].
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c) (17)]. HUD publishes an updated list of these exclusions periodically. It includes:
  - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
  - (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
  - (c) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
  - (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
  - (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
  - (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
  - (g) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931))
  - (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts
  - (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
  - (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

- (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
- (l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
- (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
- (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. § 3056(f))
- (o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *Re Agent-product liability litigation*, M.D.L. No. 381 (E.D.N.Y.)
- (p) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. § 1721)
- (q) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. §9858 (q))
- (r) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. §32(j))
- (s) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (t) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109–249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109–249) (See Section 6-I.L. for exceptions.)
- (u) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. § 12637(d))
- (v) Any allowance paid under the provisions of 38 U.S.C. §1805 to a child suffering from spine bifida who is the child of a Vietnam veteran (38 U.S.C. § 1805)

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

- (w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. § 10602)
- (x) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. § 2931)
- (y) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002
- (z) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013-30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))
- (aa) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations
- (ab) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance [See also Notice PIH 2019-09]



Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## PART II: ADJUSTED INCOME

### 5-II.A. INTRODUCTION

#### Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

24 CFR 5.611(a) *Mandatory deductions.* In determining *adjusted income*, the responsible entity [PHA] must deduct the following amounts from annual income:

- (1) \$480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of \$25);
- (2) \$525 for any elderly family or disabled family (adjusted annually
- (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
  - (i) Unreimbursed medical expenses of any elderly family or disabled family;
  - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

#### Anticipating Expenses

##### GHURA Policy

Generally, GHURA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), GHURA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, GHURA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. GHURA may require the family to provide documentation of payments made in the preceding year.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

When calculating health and medical care expenses, GHURA will include those expenses anticipated to be incurred during the 12 months following the certification date which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the HUD Occupancy Handbook 4350.3 states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification".

### 5-II.B. DEPENDENT DEDUCTION

An allowance of \$480 is deducted from annual income for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

### 5-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of \$525 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**5-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]**

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

**Definition of Medical Expenses**

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean “any costs incurred in 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 health and medical care expenses. Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

**GHURA Policy**

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used to determine the costs that qualify as medical expenses.

<b>Summary of Allowable Medical Expenses from IRS Publication 502</b>	
<p>Services of medical professionals</p> <p>Surgery and medical procedures that are necessary, legal, non-cosmetic</p> <p>Services of medical facilities</p> <p>Hospitalization, long-term care, and in-home nursing services</p> <p>Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor</p> <p>Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)</p> <p>Substance abuse treatment programs</p>	<p>Psychiatric treatment</p> <p>Ambulance services and some costs of transportation related to medical expenses</p> <p>The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)</p> <p>Cost and continuing care of necessary service animals</p> <p>Medical insurance premiums or the cost of a health maintenance organization (HMO)</p>

Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **5-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611 (a)(3)(ii)]**

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

### **Earned Income Limit on the Disability Assistance Expense Deduction**

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

### **GHURA Policy**

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, GHURA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When GHURA determines that the disability assistance expenses enable more than one family member to work, the expenses may be capped by the sum of the family members’ incomes on a case-by-case basis.

### ***Eligible Disability Expenses***

Examples of auxiliary apparatus are provided in the HUD Occupancy Handbook 4350.3 as follows: “Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work” [HUD Occ. HB Ch. 5, p. 5-45].

### ***Eligible Auxiliary Apparatus [Notice H 2023-10]***

### **GHURA Policy**

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer, an accessible lift or ramp into a vehicle), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost-of-service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

### ***Eligible Attendant Care [Notice H 2023-10]***

The family determines the type of attendant care that is appropriate for the person with disabilities.

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day. The family determines the type of attendant care that is appropriate for the person with disabilities.

#### **GHURA Policy**

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, GHURA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. 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.

### ***Payments to Family Members***

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

### **Necessary and Reasonable Expenses**

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

#### **GHURA Policy**

GHURA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, GHURA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and GHURA will consider, the family's justification for costs that exceed typical costs in the area.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**Families That Qualify for Both Medical and Disability Assistance Expenses**

**GHURA Policy**

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, GHURA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

**5-II.F. CHILD CARE EXPENSE DEDUCTION**

HUD defines *child care expenses* at 24 CFR 5.603(b) as “amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

**Clarifying the Meaning of *Child* for This Deduction**

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family’s household. However, child care expenses for foster children that are living in the assisted family’s household, are included when determining the family’s child care expenses.

**Qualifying for the Deduction**

***Determining Who Is Enabled to Pursue an Eligible Activity***

**GHURA Policy**

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family’s request, GHURA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

### *Seeking Work*

#### **GHURA Policy**

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. GHURA may monitor the family member's job search. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by GHURA.

### *Furthering Education*

#### **GHURA Policy**

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

### *Being Gainfully Employed*

#### **GHURA Policy**

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

### **Earned Income Limit on Child Care Expense Deduction**

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, child care expenses are limited to \$5,000.

The PHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HUD Occupancy HB Ch.5, p. 5-42].

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

### **GHURA Policy**

When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, GHURA generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

### **Eligible Child Care Expenses**

The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care.

### **Allowable Child Care Activities**

#### **GHURA Policy**

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, GHURA will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### ***Necessary and Reasonable Costs***

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

#### **GHURA Policy**

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, GHURA will use the schedule of child care costs from the local welfare agency. Families may present, and GHURA will consider, justification for costs that exceed typical costs in the area.



Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## 5-II.G. HARDSHIP EXEMPTIONS [24 CFR 5.61(c), (d), and (e)]

### Health and Medical Care and Reasonable Attendant Care and Auxiliary Apparatus Expenses [24 CFR 5.611 (c); Notice H 2023-10]

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories: phased-in relief or general relief, as defined below.

#### **Phased-In Relief**

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review. The family must receive phased-in relief if they are determined to be eligible. These families will begin receiving a 24-month phased-in relief at their next annual or interim recertification, whichever occurs first.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
  - When an eligible family's phased-in relief begins at an interim recertification, the O/A must process another transaction one year later to move the family along to the next phase. The transaction can be either an interim recertification if triggered, or a non-interim recertification transaction.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

PHAs must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another unit at the same property. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to multifamily housing program), unless the PHA has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PHA.

### **GHURA Policy**

GHURA will not continue the phased-in relief for families who move from public housing to multifamily housing program. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

### **General Relief**

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in PHA policy) that would not otherwise trigger an interim recertification.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PHAs develop policies defining what constitutes a hardship for purposes of this exemption.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

### **GHURA Policy**

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) and that the family's financial hardship is a result of a change in circumstances. GHURA defines a change in circumstances as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim recert in accordance with GHURA policies.

Examples of circumstances constituting a financial hardship may include the following situations:

The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

Other circumstances as determined by GHURA.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, GHURA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

### **GHURA Policy**

GHURA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the family qualifies for an exemption, GHURA will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the PHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions. PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

### **GHURA Policy**

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. GHURA will extend relief for an additional 90 days if the family demonstrates to GHURA's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. GHURA will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, GHURA may terminate the hardship exemption if GHURA determines that the family no longer qualifies for the exemption.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**5-II.H. CHILD CARE EXPENSE HARDSHIP EXEMPTION [24 CFR 5.611(d) and Notice H 2023-10]**

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the child care expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the PHA must recalculate the family's adjusted income and continue the child care deduction.

The PHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

**GHURA Policy**

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. GHURA defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. GHURA will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, GHURA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the PHA denies the request, the notice must specifically state the reason for the denial. PHAs must provide families 30 days' notice of any increase in rent.

## Guam Elderly Housing Program (Guma Trankilidat) Tenant Selection Plan

If the PHA approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice H 2023-10].

### **GHURA Policy**

GHURA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the family qualifies for an exemption, GHURA will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The PHA may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in PHA policies. PHAs are not limited to a maximum number of 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

PHAs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the PHA denies the request, the notice must specifically state the reason for the denial.

PHAs must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

### **GHURA Policy**

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. GHURA will extend relief for an additional 90 days if the family demonstrates to the GHURA's satisfaction that the family continues to qualify for the hardship exemption. GHURA will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, GHURA may terminate the hardship exemption if GHURA determines that the family no longer qualifies for the exemption.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **PART III: CALCULATING RENT**

### **5-III.A. OVERVIEW**

#### **TTP Formula [24 CFR 5.628]**

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between \$0 and \$50 that is established by the PHA

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in Section 5-III.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

#### ***Welfare Rent [24 CFR 5.628]***

##### **GHURA Policy**

Welfare rent does not apply in this locality.

#### ***Minimum Rent [24 CFR 5.630]***

##### **GHURA Policy**

The minimum rent for the Guam Elderly Housing (Guma Trankilidat) Housing Program is \$25.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

## **5-III.B. FINANCIAL HARDHSIPS AFFECTING MINIMUM RENT [24 CFR 5.630]**

### **GHURA Policy**

The financial hardship rules described below do not apply in this jurisdiction because GHURA has established a minimum rent of \$25.

### **Overview**

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

### **HUD-Defined Financial Hardship**

Financial hardship includes the following situations:

- (1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

### **GHURA Policy**

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

- (2) The family would be evicted because it is unable to pay the minimum rent.

### **GHURA Policy**

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

- (3) Family income has decreased because of changed family circumstances, including the loss of employment.
- (4) A death has occurred in the family.

### **GHURA Policy**

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).



Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

(5) The family has experienced other circumstances determined by the PHA.

**GHURA Policy**

GHURA has not established any additional hardship criteria.

**Implementation of Hardship Exemption**

***Determination of Hardship***

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family’s request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

**GHURA Policy**

GHURA defines temporary hardship as a hardship expected to last 90 days or less.  
Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

<b>Example: Impact of Minimum Rent Exemption</b>			
Assume the PHA has established a minimum rent of \$50.			
<b>Family Share – No Hardship</b>		<b>Family Share – With Hardship</b>	
\$0	30% of monthly adjusted income	\$0	30% of monthly adjusted income
\$25	10% of monthly gross income	\$25	10% of monthly gross income
N/A	Welfare rent	N/A	Welfare rent
\$50	Minimum rent	\$50	Minimum rent
Minimum rent applies. TTP = \$50		Hardship exemption granted. TTP = \$25	

**GHURA Policy**

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family’s ability to pay the minimum rent.

GHURA will make the determination of hardship within 30 calendar days.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

***No Financial Hardship***

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

**GHURA Policy**

GHURA will require the family to repay the suspended amount within 30 calendar days of GHURA's notice that a hardship exemption has not been granted.

***Temporary Hardship***

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

**GHURA Policy**

GHURA will enter into a repayment agreement in accordance with the procedures found in Chapter 12 of this plan.

***Long-Term Hardship***

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

**GHURA Policy**

GHURA will continue to monitor reported hardships on a monthly basis. The family will be asked to come in to submit a report to GHURA monthly. The hardship period ends when any of the following circumstances apply:

- (1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- (2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.
- (3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

Guam Elderly Housing Program (Guma Trankilidat)  
Tenant Selection Plan

**5-III.C. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]**

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The PHA must prorate the assistance provided to a mixed family. The PHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the PHA subsidy for a family is calculated at \$500 and two of four family members are ineligible, the PHA subsidy would be reduced to \$250.

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Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**EXHIBIT 5-1: ANNUAL INCOME FULL DEFINITION**

**24 CFR § 5.609**

***(a) Annual income included, with respect to the family:***

(1) All amounts, not specifically excluded in paragraph (b) of this section, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and

(2) When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD; and

***(b) Annual income does not include the following:***

(1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined;

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) 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 arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.

(9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from—

- (1) The Federal government;
- (2) A State, Tribe, or local government;
- (3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- (4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- (5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

- (1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;
- (2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section);
- (3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

- (1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;
- (2) Expressly to assist a student with the costs of higher education; or
- (3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

- (1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).
- (2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:
- (i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or
  - (ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.
- (10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government.
- (11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
- (12)
- (i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
  - (ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
  - (iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.
  - (iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.
- (13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.
- (14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in 24 CFR 5.611.
- (15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in 24 CFR 5.611.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

(16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law

(22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such

accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

(ii) Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.



## EXHIBIT 5-2: TREATMENT OF FAMILY ASSETS

### 24 CFR § 5.603(b) Net Family Assets

(1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

(2) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all non-necessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement

plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) 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 arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any “baby bond” account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

## Chapter 6 LEASE REQUIREMENTS AND LEASING ACTIVITIES

### INTRODUCTION

When residents are ready to sign a lease, GHURA prepares the contract that explains to the tenants the terms for residing in the unit. The lease is a legally binding contract and is enforceable in a court of law.

This chapter covers information on the lease and activities associated with the process as follows:

**Part I: Leases and Lease Attachments.** This part describes the lease requirements for the Multifamily Housing Program. It discusses documents that must be attached to the lease.

**Part II: Security Deposits.** This part discusses the requirements and procedures regarding security deposits.

**Part III: Charges in Addition to Rent.** This part discusses the charges other than rent and security deposits.

**Part IV: The Leasing Process.** This part discusses the requirements and procedures for briefing new residents and inspecting units.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **PART I: LEASES AND LEASE ATTACHMENTS**

### **6-I.A. KEY REGULATIONS**

#### **Lease Requirements**

- 24 CFR §§ 5.360, 891.425 Housing Programs: Additional Lease Provisions
- 24 CFR §§ 236.750, 886.127, 886.327, 891.425 (Form of lease)
- 24 CFR §§ 880.606, 881.601, 883.701, 884.215, 886.127, 886.327, 891.425, 891.625, 891.765 Lease Requirements
- 24 CFR §§ 880.606, 881.601, 883.701, 884.215, 886.127, 886.327, 891.425, 891.625, 891.765 (Lease Term)
- 24 CFR §§ 84.215 (RHS 515/Section 8 properties lease requirements)
- 24 §§ CFR 891.425, 891.625, 891.765 (Section 202 and Section 811 properties lease requirements)

#### **Lead-Based Paint**

- 24 CFR Part 35, Subpart A and 40 CFR Part 745 (Requirements for disclosure of known lead-based paint and/or lead-based paint hazards in housing)
- 24 CFR § 35.130 Lead Hazard Information Pamphlet

#### **Pet Regulations**

- 24 CFR Part 5 Subpart C – Pet Ownership for the Elderly or Persons with Disabilities

#### **Amending the Lease**

- 24 CFR § 247.4, 891.430 (Termination notice)
- 24 CFR § 247.4, 880.607, 881.601, 883.701 (Increase in rent)
- 24 CFR § 247.4, 880.607, 881.601, 883.701, 891.430 (Modifying the lease)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## 6-I.B. LEASE REQUIREMENTS

HUD prescribes the required model lease to be used for Section 8 New Construction programs [HUD Occupancy Handbook Chapter 6, 6-2]. The model lease to be used for Section 8 New Construction programs is referred to as “The Family Model Lease”.

The lease requires the following attachments:

- HUD-50059 signed by the tenant and GHURA
- HUD 50059 signed by GHURA, and when applicable, by the tenant
- Move-in inspection report signed by GHURA and the tenant
- A copy of the House Rules
- VAWA Addendum Form HUD 91067
- Owner’s Certification of Compliance with HUD’s Tenant Eligibility and Rent Procedures, form HUD 50059
- Lead-Based paint disclosure forms (if applicable)
- Pet rules (if applicable); and
- Live-in Aide addendum (if applicable)

The live in aide addendum must indicate 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.

## 6-I.C. AMENDING THE LEASE FOR RENT CHANGES

HUD does not require an addendum for a change in the tenant’s rent; a printout of the HUD-50059 or HUD-50059-A serves as an addendum identifying the change in rent.

If a tenant’s rent increases for any reason other than a tenant’s failure to comply with recertification requirements, GHURA must provide the tenant 30 days advance written notice of the increase.

### **GHURA Policy**

GHURA will ensure that a 30-day written notice is provided to the family and a copy of the document placed in the participant file.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## PART II: SECURITY DEPOSITS

### 6-II.A. KEY REGULATIONS

- 24 CFR §§ 880.608, 881.601, 883.701, 884.115, 886.116, 886.315, 891.435, 891.635, AND 891.775 (Security and utility deposits)
- 24 CFR §§ 880.608, 881.601, 883.701, 884.115, 886.116, 886.315, 891.435, 891.635 and 891.775 (Interest earned on the security deposit)
- 24 CFR §§ 880.608, 881.601, 883.701, 884.115, 886.116, 886.315, 891.435, 891.635, and 891.775 (Refunding and use of the security deposit)

### 6-II.B. COLLECTION OF SECURITY DEPOSITS

At the option of the PHA, the lease may require deposit. The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by the PHA. The PHA may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit or used for tenant services or activities.

#### **GHURA Policy**

Residents must pay a security deposit to GHURA at the time of admission. The amount of the security deposit will be equal to the family's total tenant payment at the time of move-in and must be paid in full prior to occupancy.

If the resident's rent share is at the minimum rent of \$25, then the minimum required security deposit to be collected is \$50.

GHURA will hold the security deposit for the period the family occupies the unit. GHURA will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, GHURA will refund to the resident the amount of the security deposit (including interest earned on the security deposit), less any amount needed to pay the cost of unpaid rent and late fees, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

GHURA will provide the resident with a written list of any charges against the security deposit within 10 business days of the move-out inspection. If the resident disagrees with the amount charged, GHURA will provide a meeting to discuss the charges.

If the resident transfer to another unit, GHURA will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the "old" unit.

## **PART III: CHARGES IN ADDITION TO RENT**

### **6-III.A. KEY REGULATIONS**

- 24 CFR § 5.318 Discretionary Pet Rules (Pet Deposit)

### **6-III.B. CHARGES PRIOR TO OCCUPANCY**

GHURA does not charge applicants for costs associated with accepting and processing applications, screening, or verifying income and eligibility. GHURA does not require applicants to pay application fees, credit report charges, charges to obtain police report(s), or other costs considered project expenses.

### **6-III.C. CHARGES AT INITIAL OCCUPANCY**

GHURA may collect a pet deposit at initial occupancy in accordance with HUD Handbook 4350.1, Multifamily Asset Management and Project Servicing.

### **6-III.D. LATE FEES AND NONPAYMENT OF RENT**

At the option of the PHA, the lease may provide for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4].

The lease must provide that late payment fees and must provide written notice to the tenant of the charges. The written notice is considered an adverse action and must meet the requirement governing a notice of adverse action.

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if hearing was requested within the required timeframe), the grievance hearing has been completed.

#### **GHURA Policy**

If tenant fails to make rent payment by the fifth day of the month, GHURA will assess a late fee of \$5 for nonpayment of rent.

GHURA will provide a written notice of nonpayment of rent and the late fee of \$5 applied for the month rent has not been paid.

GHURA will not evict a tenant for failure to pay late charges, but may terminate lease agreement for nonpayment of rent.

GHURA may deduct unpaid late charges from the tenant's security deposit at the time of move-out.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

Rent payments that are “chronically” late, will be grounds for lease termination if there is a delinquent balance at the time of termination. Rent that is late 4 or more times within a 12-month period is considered chronically late.

If tenant fails to make rent payment by the end of office hours on the 15<sup>th</sup> day of the month, a 30-day notice of proposed termination will be mailed and served to the tenant for nonpayment of rent.

If the family requests a grievance hearing within the required timeframe, GHURA may not take action for nonpayment of the rent until the conclusion of the grievance process.

The tenant shall be liable for all court costs and other fees actually expended in a legal action for enforcement of the lease agreement, including but not limited to moving and storage fees, unless the tenant prevails.

### **6-III.E. PET DEPOSITS [24 CFR 5.318; HUD Handbook 4350.1]**

The PHA may require tenant who own or keep pets in their units to pay refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants of the project [24 CFR 5.318].

The maximum amount of pet deposit that may be charged by a PHA on a per dwelling unit basis, is the higher of the total tenant payment (TTP) or such reasonable fixed amount as the PHA may require. The PHA may permit gradual accumulation of the pet deposit by the pet owner [24 CFR 5.318].

The pet deposit is not part of the rent payable by the resident [24 CFR 5.318].

#### **GHURA Policy**

Pet owners are required to pay a pet deposit in addition to any other required deposits. The pet deposit for the Guma Trankilidat is \$300, the maximum amount allowed for RHS 515 with Section 8 programs.

Pet deposits are refundable.

Pet deposits will be used only to pay reasonable expenses directly attributable to the presence of the pet on the property.

Pet deposits only apply to properties established for the elderly and persons with disabilities. Assistance animals that assist persons with disabilities are considered to be auxiliary aids and are exempt from the pet policy and from the refundable pet deposit

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **6-III.F. OTHER CHARGES DURING OCCUPANCY**

### *Returned checks*

GHURA imposes a fee (determined by GHURA's Fiscal Division – only the amount filled by the bank for processing the returned check) on the second time and each additional time a check is not honored for payment.

### *Damages*

Whenever damage is caused by carelessness, misuse, or neglect on the part of the tenant, household member, or visitor, the tenant is obligated to reimburse GHURA for damages within 30 days after the tenant receives a bill from GHURA.

GHURA may deduct unpaid damage charges from the tenant's security deposit at the time of move-out.

GHURA's bill is limited to the actual costs incurred for repairing the damages.

### *Special Management Services*

GHURA may charge a tenant for special services such as responding to lock-out calls and providing extra keys.

GHURA may charge the tenant a fee for each key not returned at time of move-out.

GHURA may require tenants to pay other charges that have been approved by HUD that are listed in the lease agreement, or have been distributed to tenants in accordance with the modification of the lease requirements and procedures.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **PART IV: THE LEASING PROCESS AND INSPECTIONS**

### **6-IV.A. BRIEFING**

GHURA conducts a briefing before the tenant signs the lease to make sure that the tenant understands this/her obligations and responsibilities prior to move-in. The briefing covers the following topics:

Signatures, Term of the lease, annual/interim recertifications rent, security deposits, other charges, maintenance, termination of tenancy, and other general rules.

### **6-IV.B. UNIT INSPECTIONS**

#### **Overview**

The PHA is obligated to maintain safe and habitable dwelling units and to make necessary repairs to dwelling units [24 CFR 966.4(e)]. The National Standards for the Physical Inspection of Real Estate (NSPIRE) are the standard under which HUD housing units, including those under the multifamily housing program, are inspected. NSPIRE ensures that residents of multifamily live in safe, habitable dwellings, and the items and components located inside, outside, and within the units are functionally adequate, operable, and free of health and safety hazards [24 CFR 5.7039a)]. Further, units must comply with state and local code requirements (such as fire, mechanical, plumbing, carbon monoxide, property maintenance, and residential code) [24 CFR 5.703(f)] as well as with all requirements related to the evaluation and control of lead-based paint hazards [24 CFR 5.703(e)(2)].

Under NSPIRE, multifamily housing units are subject to three types of inspections: annual self-inspections, NSPIRE Inspections (which are used to assess and score the PHA under the Public Housing Assessment System (PHAS)), and NSPIRE Plus Inspections (which are triggered by poor property conditions). HUD regulations also require the PHA to inspect each multifamily housing unit prior to move-in and move-out. The PHA may require additional inspections by the PHA and HUD, notification of unit entry, and inspection repair timelines. This section discusses inspections conducted by the PHA (including annual self-inspections) and inspections conducted by HUD REAC.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Types of PHA Conducted Inspections**

Move-in and move-out inspections are not to be confused with annual unit inspection performed by GHURA or National Standards for the Physical Inspection of Real Estate (NSPIRE) performed by HUD (or their contractors).

***Move-In Inspections [HUD Occupancy HB Ch. 6, p. 6-45]***

The PHA conducts move-in inspections as an opportunity for families to familiarize his/her self with the project and the unit. The move-in inspection documents the unit's current condition, and assures tenants that the unit is in livable condition, free of damages. The PHA uses this opportunity to discuss with the family the house rules and operation of the appliances and equipment in the unit.

**GHURA Policy**

The Head of Household or Spouse must attend the initial inspection and sign the inspection form together with a GHURA representative.

***Move-Out Inspections [HUD Occupancy HB Ch. 6, p.6-46]***

The PHA must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if they wish, unless the tenant vacates without notice to the PHA. The PHA must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

**GHURA Policy**

For move-out inspections, GHURA uses its discretion to distinguish between wear and tear and versus damage.

When applicable, GHURA will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 10 business days of conducting the move-out inspection.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Self-Inspections [24 CFR 5.707]**

Annually all PHAs are required to self-inspect their properties, including all units, to ensure units are maintained in accordance with NSPIRE standards in 24 CFR 5.703. As part of the self-inspection process, PHAs must ensure that deficiencies previously cited and repaired as a result of an NSPIRE inspection have not subsequently failed.

The PHA must maintain the results of self-inspections for three years and must provide the results to HUD upon request.

**Quality Control Inspections**

The purposes of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed and within an acceptable time frame.

**GHURA Policy**

Supervisory quality control inspections will be conducted in accordance with GHURA's maintenance plan.

**Special Inspections**

**GHURA Policy**

GHURA staff may conduct a special inspection for any of the following reasons:

Housekeeping

Unit condition

Suspected lease violation

Preventive maintenance

Routine maintenance

There is reasonable cause to believe an emergency exists

**Other Inspections**

**GHURA Policy**

Building exteriors, grounds, common areas and systems will be inspected according to GHURA's maintenance plan.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Notice of Entry**

**Non-emergency Entries [24 CFR 966.4(j)(1)]**

The PHA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of the PHA entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

**GHURA Policy**

GHURA will notify the resident in writing at least 48 hours prior to any non-emergency inspection.

For regular annual self-inspections, the family will receive at least two weeks written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for GHURA to enter the unit.

Except for emergencies, management will not enter the dwelling unit to perform inspections where a pet resides unless accompanied for the entire duration of the inspection by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 6-III.E.

**Emergency Entries [24 CFR 966.4(j)(2)]**

The PHA may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, the PHA must leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Scheduling of PHA-Conducted Inspections**

**GHURA Policy**

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify GHURA at least 24 hours prior to the scheduled inspection. GHURA will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. GHURA PHA may request verification of such cause.

**Attendance at Inspections**

Residents are required to be present for move-in inspections [24 CFR 966.4(i)]. There is no such requirement for other types of inspections.

**GHURA Policy**

While the resident is required to be present for move-in inspections, the resident is not required to be present for other types of inspections. The resident may attend the inspection if they wish. If no one is at home, the inspector will enter the unit, conduct the inspection and leave a copy of the inspection report in the unit.

**Repairs**

Correction timeframes differ depending on whether repairs are considered emergency or nonemergency repairs.

**Emergency Repairs [24 CFR 966.4(h)]**

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify the PHA of the damage, and the PHA must make repairs within a reasonable time frame. Under NSPIRE, the PHA must correct all Life-Threatening and Severe deficiencies within 24 hours.

If the damage was caused by a household member or guest, the PHA must charge the family for the reasonable cost of repairs. The PHA may also take lease enforcement action against the family.

If the PHA cannot make repairs quickly, the PHA must offer the family standard alternative accommodations. If the PHA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Non-emergency Repairs**

**GHURA Policy**

GHURA will correct deficiencies resulting in a non-emergency work order identified during a GHURA conducted inspection within 30 days of the inspection date. If GHURA is unable to make repairs within that period due to circumstances beyond GHURA's control (e.g., required parts or services are not available, weather conditions, etc.) GHURA will notify the family of an estimated date of completion.

The family must allow GHURA access to the unit to make repairs.

Except for emergencies, management will not enter the dwelling unit to perform repairs where a pet resides unless accompanied for the entire duration of the repair by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 6-III.E.

**Housekeeping**

**GHURA Policy**

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, GHURA will provide proper notice of a lease violation.

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector and/or carbon monoxide alarm. Only one warning will be given. A second incidence will result in lease termination.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**6-II.C. NSPIRE INSPECTIONS [24 CFR 5.705(c); Notice PIH 2023-16]**

During an NSPIRE inspection, REAC inspectors will inspect areas and associated items or components that are listed in the regulations as affirmative requirements and those included within the NSPIRE standards. For most properties, the frequency of NSPIRE inspections is determined by the date of the prior inspection and the score received.

**Notice to Residents [Notice PIH 2023-16]**

The PHA must provide notice to all residents as described in 24 CFR 5.711(h) and the lease.

**GHURA Policy**

GHURA will provide all residents with at least seven days' notice of an NSPIRE inspection. Notice will be provided through multiple communication methods, including by posted notice on each resident's door and through email where applicable. All materials, notices, and communications to families regarding the inspection will be clearly communicated and provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act (Section 504) and HUD's Section 504 regulation, and Titles II or III of the Americans with Disabilities Act (ADA) and implementing regulations.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **PART V: PETS AND ASSISTANCE ANIMALS**

### **6-V.A. OVERVIEW**

This part discusses situations under which permission for an assistance animal, including service and support animals, may be denied, and also establishes standards for the care of assistance animals.

Notice FHEO 2020-01 was published January 28, 2020. The notice provides guidance to help PHAs and other housing providers distinguish between a person with a non-obvious disability who has a legitimate need for an assistance animal and a person without a disability who simply wants to have a pet or avoid the costs and limitations imposed by the PHA's pet policies. FHEO 2020-01 makes clear that the notice is guidance and a tool for PHAs and other housing providers to use at their discretion and provides a set of best practices for addressing requests for assistance animals. The guidance in FHEO 2020-01 should be read together with HUD's regulations prohibiting discrimination under the Fair Housing Act (FHA) and the HUD/Department of Justice (DOJ) Joint Statement on Reasonable Accommodation under the Fair Housing Act. Housing providers may also be subject to the Americans with Disabilities Act (ADA) and should therefore refer also to DOJ's regulations implementing Titles II and III of the ADA at 28 CFR Parts 35 and 36, in addition to DOJ's other guidance on assistance animals.

There are two types of assistance animals: (1) service animals, and (2) other animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (i.e., support animals).

Assistance animals, including service and support animals, are not pets and thus are not subject to the PHA's pet policies described in this chapter [24 CFR 5.300 – 5.327; 24 CFR 5.350 – 5.363; Notice FHEO 2020-01].



## **6-V.B. APPROVAL OF ASSISTANCE ANIMALS [Notice FHEO 2020-01]**

### **Service Animals**

Notice FHEO 2020-01 states that PHAs should initially follow the Department of Justice (DOJ) analysis to assessing whether an animal is a service animal under the Americans with Disabilities Act (ADA). Under the ADA, a service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.

As a best practice, housing providers may use the following questions to help them determine if an animal is a service animal under the ADA:

- Is the animal a dog? If not, the animal is not a service animal but may be another type of assistance animal for which an accommodation is needed (support animal).
- Is it readily apparent that the dog is trained to do work or perform tasks for the benefit of the individual with a disability? If yes, further inquiries are inappropriate because the animal is a service animal. If not, it is advisable that the PHA limit its inquiries to the following two questions: (1) Is the animal required because of the disability? and (2) What work or task has the animal been trained to perform?

If the answer to question (1) is “yes” and work or a task is identified in response to question (2), grant the requested accommodation if otherwise reasonable. If the answer to either question is “no,” the animal does not qualify as a service animal but may be a support animal.

A service animal must be permitted in all areas of the facility where members of the public are allowed.

### **Support Animals (Assistance Animals other than Service Animals)**

If the animal does not qualify as a service animal, the PHA must next determine whether the animal would qualify as a support animal (other type of assistance animal). If the individual has indeed requested a reasonable accommodation to get or keep an animal in connection with a physical or mental impairment or disability, the PHA may use the following questions to help them assess whether to grant the accommodation in accordance with the policies outlined in Chapter 2 (the PHA is not required to grant a reasonable accommodation that has not been requested):

## Guam Elderly Housing (Guma Trankilidat) Tenant Selection Plan

- Does the person have an observable disability or does the PHA already have information giving them reason to believe that the person has a disability? If not, has the person requesting the accommodation provided information that reasonably supports that the person seeking the accommodation has a disability?
- If the person has an observable disability, the PHA already has information giving them reason to believe the person has a disability, or the person has provided information supporting that they have a disability, then has the person provided information that reasonably supports that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual's disability?
- If yes, is the animal commonly kept in households? An animal commonly kept in households would be a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes. For purposes of this assessment, reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.

If the individual is requesting to keep a unique animal not commonly kept in households, then the requestor has the substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal. Such individuals are encouraged to submit documentation from a health care professional.

### **General Considerations**

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and their need for the animal [HUD Handbook 4350.1].

Before denying a reasonable accommodation request due to lack of information confirming an individual's disability or disability-related need for an animal, the PHA is encouraged to engage in a good-faith dialog with the requestor called the "interactive process" [FHEO 2020-01].

A PHA may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability [HUD Handbook 4350.1].

A PHA's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

## Guam Elderly Housing (Guma Trankilidat) Tenant Selection Plan

The Fair Housing Act does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others. A PHA may therefore refuse a reasonable accommodation for an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through the actions the individual takes to maintain or control the animal (e.g., keeping the animal in a security enclosure).

While most requests for reasonable accommodations involve one animal, requests sometimes involve more than one animal (for example, a person has a disability-related need for both animals, or two people living together each have a disability-related need for a separate assistance animal). The decision-making process in Notice FHEO 2020-01 should be used in accordance with the reasonable accommodation policies in Chapter 2 for all requests for exceptions or modifications to the PHA's rules, policies, practices, and procedures so that persons with disabilities can have assistance animals in the housing where they reside.

PHAs have the authority to regulate service animals and assistance animals under applicable federal, state, and local law [24 CFR 5.350 – 5.363].

### **GHURA Policy**

For an animal to be excluded from the pet policy and be considered a service animal, it must be a trained dog, and there must be a person with disabilities in the household who requires the dog's services.

For an animal to be excluded from the pet policy and be considered a service animal, there must be a person with disabilities in the household, there must be a disability-related need for the animal, and the family must request and GHURA approve a reasonable accommodation in accordance with the criteria outlined in Notice FHEO 2020-01 and the policies contained in Chapter 2.

***Assistive Animal or Assistive/Service Animal:*** An animal which provides assistance, services or support to a person with disabilities and which is needed as a reasonable accommodation to such an individual. Such animals work, provide assistance, or perform tasks for the benefit of a person with a disability or provide emotional support that alleviates one or more identified symptoms or effects of a person's disability (for example a dog guiding an individual with impaired vision or alerting an individual with impaired hearing). An assistive animal shall not be counted in the number of pets kept in a household.

## Guam Elderly Housing (Guma Trankilidat) Tenant Selection Plan

Assistive animals – often referred to as “service animals,” “assistive animals,” “support animals,” or “therapy animals” – perform many disability-related functions, including but not limited to the following:

- Guiding individuals who are blind or vision impaired;
- Alerting individuals who are deaf or hearing impaired;
- Providing minimal protection or rescue assistance;
- Pulling a wheelchair;
- Fetching items;
- Alerting persons to impending seizures; and
- Providing emotional support to persons with disabilities who have a disability-related need for such support.

There are no size or breed restrictions on assistive animals; however, the tenant is still required to follow all of the terms and conditions of the lease, including the ability to ensure the peaceful enjoyment of the development by others. PHA also reserves the right to deny requests for service and assistive animals based on state and local law.

### **6-V.C. CARE AND HANDLING**

HUD regulations do not affect any authority a PHA may have to regulate assistance animals, including service animals, under federal, state, and local law [24 CFR 5.303].

#### **GHURA Policy**

Residents are responsible for feeding, maintaining, providing veterinary care, and controlling their assistance animals. A resident may do this on their own or with the assistance of family, friends, volunteers, or service providers.

Residents must care for assistance animals in a manner that complies with Guam laws, including anti-cruelty laws.

Residents must ensure that assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident’s care or handling of an assistance animal violates these policies, GHURA will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If GHURA determines that no such accommodation can be made, GHURA may withdraw the approval of a particular assistance animal.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **6-V.D. MANAGEMENT APPROVAL OF PETS**

### **Registration of Pets**

PHAs may require registration of the pet with the PHA [HUD Handbook 4350.1 & 4350.3 and 24 CFR 5.350].

#### **GHURA Policy**

Pet must be registered with GHURA before they are brought onto the premises.

Registration includes documentation signed by a licensed veterinarian or Guam authority that the pet has received all inoculations required by Guam law, and that the pet has no communicable disease(s) and is pest-free. This registration must be renewed annually and will be coordinated with the annual recertification date.

Pets will not be approved to reside in the unit until completion of the registration requirements.

### **Refusal to Register Pets**

#### **GHURA Policy**

GHURA will refuse to register a pet if:

The pet is not a common household pet as defined in Section 6-V.D. below

Keeping the pet would violate any pet restrictions listed in this policy

The pet owner fails to provide complete pet registration information, or fails to update the registration annually

The applicant has previously been charged with animal cruelty under Guam law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order

GHURA reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If GHURA refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of GHURA's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with GHURA's grievance procedures.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Pet Agreement**

**GHURA Policy**

Residents who have been approved to have a pet must enter into a pet agreement with GHURA, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that they have received a copy of GHURA's pet policy and applicable house rules, that they have read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that they understand that noncompliance with GHURA's pet policy and applicable house rules may result in the withdrawal of GHURA approval of the pet or termination of tenancy.

**6-V.D. STANDARDS FOR PETS [24 CFR 5.318]**

PHAs may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size
- Prohibitions on types of animals that the PHA classifies as dangerous, provided that such classifications are consistent with applicable state and local law
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal
- Requiring pet owners to have their pets spayed or neutered

PHAs may not require pet owners to have any pet's vocal cords removed.

PHAs may not require pet owners to obtain or carry liability insurance.

## Guam Elderly Housing (Guma Trankilidat) Tenant Selection Plan

### **Definition of “Common Household Pet”**

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize PHAs to define the term [24 CFR 5.318].

#### **GHURA Policy**

*Common household pet* means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial or breeding purposes.

The following animals are **not** considered common household pets:

- Reptiles (except turtles)
- Rodents
- Insects
- Arachnids
- Wild animals or feral animals
- Pot-bellied pigs
- Animals used for commercial breeding

### **Pet Restrictions [HUD Handbook 4350.1; 24 CFR 5.318]**

#### **GHURA Policy**

The following animals are not permitted:

- Any animal whose adult weight will exceed 25 pounds
- Dogs of the pit bull, rottweiler, chow, or boxer breeds
- Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations
- Any animal not permitted under Guam law

### **Number of Pets [HUD Handbook 4350.1; 24 CFR 5.318]**

#### **GHURA Policy**

Residents may own a maximum of 2 pets, only 1 of which may be a dog or cat. In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to 10 gallons. Such a tank or aquarium will be counted as 1 pet.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Other Requirements**

**GHURA Policy**

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching 6 months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with Guam law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

The presence of a pet may not interfere with the routine pest extermination, routine repairs and/or inspection of the unit. The resident is responsible for removing or otherwise protecting the pet every time extermination or maintenance is scheduled.

Pet owners will not allow pets to disturb the health, safety, rights, comfort or quiet enjoyment of other residents. Repeated, substantiated complaints from other residents, neighbors or GHURA personnel regarding pets disturbing the peaceful enjoyment of the premises through noise, smell, animal waste or other nuisance will result in the resident having to remove the pet or be subject to lease violation procedures.

Pets should not be left alone for more than 24 hours. They should be cared for by a designated person or taken to a kennel or appropriate shelter. In the event that a pet is left alone in an unoccupied unit, due to vacation, illness or other absence of the resident, and the pet is not being properly cared for, Management shall attempt to contact the resident or the resident's emergency contact to remove the animal. If this is not successful, the Property Site Manager or designated staff may have the pet removed at the owner's expense to an appropriate animal shelter. This action will be taken as expeditiously as possible to prevent harm to the unit, other residents and/or the animal. The Property Site Manager or designated staff shall record all such actions taken in the resident's file.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **6-V.E. PET RULES**

Pet owners must maintain pets responsibly, in accordance with PHA policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

### **Pet Area Restrictions**

#### **GHURA Policy**

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried. They must be under the control of the resident or other responsible individual at all times.

Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit.

Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

Pet owners are not permitted to exercise pets or permit pets to deposit waste on project premises outside of the areas designated for such purposes.

### **Designated Pet/No-Pet Areas [24 CFR 5.318(g), HUD Handbook 4350.1]**

PHAs may designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Pet rules may also designate buildings, floors of building, or sections of building for residency by pet-owning tenants.

PHAs may direct initial tenant moves as may be necessary to establish pet and no-pet areas. The PHA may not refuse to admit, or delay admission of, an applicant on the grounds that the applicant's admission would violate a pet or no-pet area. The PHA may adjust the pet and no-pet areas or may direct such additional moves as may be necessary to accommodate such applicants for tenancy or to meet the changing needs of the existing tenants.

PHAs may not designate an entire development as a no-pet area, since regulations permit residents to own pets.

#### **GHURA Policy**

With the exception of common areas as described in the previous policy, GHURA has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, GHURA has not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning tenants.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Cleanliness**

**GHURA Policy**

The pet owner shall be responsible for the removal of waste, both inside and outside their unit, by placing it in a sealed plastic bag and disposing of it in a container.

The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements:

Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.

Litter shall not be disposed of by being flushed through a toilet.

Litter boxes shall be kept inside the resident's dwelling unit.

**Alterations to Unit**

**GHURA Policy**

Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal. Installation of pet doors is prohibited.

**Noise**

**GHURA Policy**

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

**Pet Care**

**GHURA Policy**

Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for their pet.

Each pet owner shall be responsible for appropriately training and caring for their pet to ensure that the pet is not a nuisance or danger to other residents and does not damage GHURA property.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Responsible Parties**

**GHURA Policy**

The pet owner will be required to designate two (2) responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify GHURA and sign a statement that they agree to abide by all of the pet rules.

**Inspections and Repairs**

**GHURA Policy**

Except for emergencies, management will not enter the dwelling unit for performance of repairs or inspections where a pet resides unless accompanied for the entire duration of the inspection or repair by the pet owner or responsible person designated by the pet owner. The pet must be held under physical restraint by the pet owner or responsible person until management has completed its tasks. Any delays or interruptions suffered by management in the inspection, maintenance, and upkeep of the premises due to the presence of a pet may be cause for lease termination.

**Pets Temporarily on the Premises**

**GHURA Policy**

Pets that are not owned by a tenant are not allowed on the premises. Residents are prohibited from feeding or harboring stray animals. This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations and approved by GHURA.

**Pet Rule Violations**

**GHURA Policy**

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement.

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

That the pet owner has 10 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation.

That the pet owner is entitled to be accompanied by another person of their choice at the meeting.

That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Notice for Pet Removal**

**GHURA Policy**

If the pet owner and GHURA are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by GHURA, GHURA may serve notice to remove the pet.

The notice will contain:

A brief statement of the factual basis for GHURA's determination of the pet rule that has been violated.

The requirement that the resident /pet owner must remove the pet within 30 calendar days of the notice.

A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures.

**Pet Removal**

**GHURA Policy**

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if GHURA after reasonable efforts cannot contact the responsible party, GHURA may contact the appropriate Guam agency and request the removal of the pet.

**Termination of Tenancy**

**GHURA Policy**

GHURA may initiate procedures for termination of tenancy based on a pet rule violation if:

- The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified.
- The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Emergencies**

**GHURA Policy**

GHURA will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate Guam entity authorized to remove such animals.

If it is necessary for GHURA to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

**6-V.F. PET-RELATED CHARGES DUE TO DAMAGES**

**Pet-Related Damages During Occupancy**

**GHURA Policy**

All reasonable expenses incurred by GHURA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

- The cost of repairs and replacements to the resident's dwelling unit

- Fumigation of the dwelling unit

- Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs. Pet deposits will not be applied to the costs of pet-related damage during occupancy.

Charges for pet-related damage are not part of the rent payable by the resident.

**Pet Waste Removal Charge**

The regulations do not address the PHA's ability to impose charges for house pet rule violations. However, charges for violation of PHA pet rules may be treated like charges for other violations of the lease and PHA tenancy rules.

**GHURA Policy**

A separate pet waste removal charge of \$10 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Such charges will be due and payable 14 calendar days after billing.

Charges for pet waste removal are not part of rent payable by the resident.

## Chapter 7 VERIFICATION

### INTRODUCTION

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

GHURA will follow the verification guidance provided by HUD in Notice H 2023-10 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary GHURA policies.

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

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

### PART I: GENERAL VERIFICATION REQUIREMENTS

#### 7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [HUD Handbook 4350.3, REV-1, CHG-4, Section 5-12; Notice H 2023-10]

##### Consent Forms

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA's verification of that information.

All adult family members (and the head and spouse/cohead, regardless of age) are required to sign the Consent to Release of Information Forms HUD-9887 and 9887-A at admission.

On or after January 1, 2024, current residents must sign and submit a new Form HUD-9887 and 9887-A at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9887 and 9887-A will not be submitted to the PHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PHA in administrative instructions.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at recertification.

**GHURA Policy**

Household members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Forms HUD-9887 and 9887A within seven days of turning 18 years of age.

The PHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the PHA determines, the record is needed to establish an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PHA to revoke consent. All adult members must also sign all PHA-created individual verification forms. If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants or terminate the assistance of tenants.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

**GHURA Policy**

GHURA has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with GHURA policy.

In order for a family to revoke their consent, the family must provide written notice to GHURA.

Within 10 business days of the date the family provides written notice, GHURA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, GHURA will notify their local HUD office.

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

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

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**7-1.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS**  
**[24 CFR 5.609(c)(3) and Notice H 2023-10]**

PHAs may, but are not required to, 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 means-tested federal public assistance programs (Safe Harbor). PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs Means-tested federal public assistance programs include:

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



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

If the PHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the PHA. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the PHA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the PHA must calculate the family's annual income using traditional methods as outlined in Notice H 2023-10.

If the PHA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the PHA's reporting requirement and occur after the effective date of the transaction.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

**GHURA Policy**

When available and applicable, GHURA will accept other programs' Safe Harbor determinations of income at annual recertification to determine the family's total annual income. GHURA will still require third-party verification of all deductions such as the health and medical care expense or child care expense deductions. Further, if the family is eligible for and claims the disability assistance expense or child care expense deductions, where applicable, GHURA will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, GHURA will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, GHURA will obtain third-party verification of all sources of income and assets (as applicable).

GHURA will not accept other programs' determinations of income for any new admission or interim recertification.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, GHURA will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

Be dated within 12 months of the dates listed above;

State the family size

Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members);  
and

Must state the amount of the family's annual income.

The determination need not list each source of income individually. If GHURA does not receive any acceptable income determination documentation or is unable to obtain documentation, then GHURA will revert to third-party verification of income for the family.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

When families present multiple verifications from the same or different acceptable Safe Harbor programs, GHURA will use the most recent income determination, unless the family presents acceptable evidence that GHURA should consider an alternative verification from a different Safe Harbor source.

When GHURA uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to GHURA. Depending on when the change occurred, the change may or may not impact GHURA's calculation of the family's total annual income. Changes that occur between the time GHURA receives the Safe Harbor documentation and the effective date of the family's annual recert will not be considered. If the family has a change in income that occurs after the annual recert effective date, GHURA will conduct an interim recertification if the change meets the requirements for performing an interim recertification. In this case, GHURA will use third-party verification to verify the change.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c);  
Notice H 2023-10]**

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained at move-in and every three years thereafter, in the intervening years, the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the PHA may apply the inflationary adjustment factor to the family's fixed income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs may apply a COLA to each of the family's sources of fixed income. PHAs must determine all other income using standard verification requirements.

**GHURA Policy**

When GHURA does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then GHURA will use a streamlined income determinations where applicable.

Regardless of the percent of a family's unadjusted income from fixed income sources:

GHURA will streamline the annual recertification process by applying the verified COLA/inflationary adjustment factor to fixed-income sources.

The family will be required to sign a self-certification stating that their sources of fixed income have not changed from the previous year.

GHURA will document in the file how the determination that a source of income was fixed was made.

If the family's sources of fixed income have changed from the previous year, GHURA will obtain third-party verification of any new sources of fixed income.

All other income will be verified using third-party verification as applicable.

In the following circumstances, regardless of the percentage of income received from fixed sources, GHURA will obtain third-party verification as outlined in Notice H 2023-10, as applicable:

- Of all assets when net family assets exceed \$50,000;
- Of all deductions and allowances from annual income;
- If a family member with a fixed source of income is added;
- If verification of the COLA or rate of interest is not available;
- During move-in and at least once every three years thereafter.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## 7-I.D. VERIFICATION HIERARCHY [Notice 2023-10]

When the PHA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the PHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds \$50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The PHA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
  - Written third-party verification from the source, also known as "tenant-provided verification"
  - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

### **File Documentation**

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

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **7-I.E. LEVEL 5 AND 6 VERIFICATIONS: UP-FRONT INCOME VERIFICATION (UIV)**

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. PHAs may use UIV sources before or during a family's reexamination.

UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of GHURA.

### **Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)**

PHA must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined recertifications of family composition and income in accordance with 24 CFR 5.236 and Notice H 2023-10.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

### **EIV Income and IVT Reports**

PHAs are required to obtain an EIV Income and IVT report for each family any time the PHA conducts an annual recertification. However, PHAs are not required to use the EIV Income and IVT reports:

- At annual recertification if the PHA used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or
- During any interim recertifications.

The EIV Income and IVT Reports are also not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, the PHA must pull the report within 120 days of the effective date of the annual recertification.

## Guam Elderly Housing (Guma Trankilidat) Tenant Selection Plan

The EIV Income Report may be used to verify and calculate income at annual recertification if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

### **GHURA Policy**

Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, GHURA will obtain EIV Income and IVT reports for all annual recertifications for all families on a monthly basis. Reports will be generated as part of the regular recertification process. GHURA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual recertification.

Income and IVT reports will only be used for interim recertifications as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in resident files with the applicable annual documents or interim recertification document (if applicable) for the duration of tenancy.

When GHURA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 12, Program Integrity.

### **New Hires Report [Notice H 2023-10]**

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

PHAs must review this information at annual reexamination except when the PHA uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the PHA requires an interim for increases in earned income after an interim decrease, then the PHA must review the report quarterly after the family's interim decrease.

### **GHURA Policy**

In accordance with GHURA policies in Chapter 8, GHURA does not process interim reexaminations for families who have increases in earned income. Except for instances in which GHURA uses Safe Harbor income determinations to determine a family's annual income, GHURA will only review the New Hires Report at annual reexamination.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**No Income Reported by HHS or SSA Report**

This report is a tool for PHAs to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that they tenant does not have any income. PHAs obtain written, third-party verification of any income reported by the tenant. The PHA must identify in its policies and procedures when this report will be pulled [Notice H 2023-10].

**GHURA Policy**

GHURA will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

GHURA will re-verify the status of tenants identified on the report quarterly. Based on the information provided by the family and in EIV, GHURA may require that family members provide verifications or sign release forms in order to obtain additional verification.

When GHURA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 12, Program Integrity.

***EIV Identity Verification Report***

The EIV system verifies tenant identities against Social Security Administration (SSA) records. These records are compared to HUD data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice H 2023-10].

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

**GHURA Policy**

GHURA will identify residents whose identity verification has failed by reviewing EIV's Identity Verification Report on a monthly basis.

GHURA will attempt to resolve discrepancies by obtaining appropriate documentation from the tenant. When GHURA determines that discrepancies exist as a result of GHURA errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Deceased Tenants Reports [Notice H 2023-10]**

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The PHA is required to review the report at least quarterly.

**GHURA Policy**

GHURA will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, PHAs must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The PHA must conduct a home visit to determine if anyone is residing in the unit.

PHAs are required to list the move-out date for the family as of the date on which the family or designee of the deceased tenant's estate returned the keys and signed a vacate notice; the date the lease was terminated; or the date the PHA legally regained possession of the unit, whichever occurs first.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for continued occupancy. The PHA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50059.

**Other EIV Reports [Notice H 2023-10]**

The PHA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

***Upfront Income Verification Using Non-HUD Systems (Optional)***

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

**GHURA Policy**

GHURA will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:

- **HUD's EIV system:** The EIV system is a tool used by Public Housing agencies to obtain income information for the purpose of verifying a family annual income during reexamination. The EIV is available via the internet.
- **IRS 4506 T:** The use of form 4506-T is for the purpose of requesting transcripts of a family's tax return to verify the family's income source.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## 7-I.F. LEVEL 4 VERIFICATION [Notice H 2023-10]

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

### EIV + Self-Certification

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as EIV + self-certification. When calculating income using this method, the PHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

### GHURA Policy

At annual reexamination, if GHURA is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, GHURA will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

GHURA will use an average of the last two quarters of income listed in EIV to determine income from employment. GHURA will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, GHURA will use written third-party verification from the source as outlined below.

GHURA will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current

### **Written Third-Party Verification from the Source**

Written third-party verification from the source is also known as “tenant-provided verification.” In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer’s transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

The PHA is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the PHA should determine income based on information from a traditional written third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the PHA uses written third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

**GHURA Policy**

In general, GHURA will use third-party verification from the source in the following circumstances:

At annual recertification when EIV + self-certification is not used;

For all new admissions; and

For all interim reexaminations.

GHURA will not use this method if GHURA is able to use an income determination from a means-tested federal assistance program or if GHURA uses EIV = self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by GHURA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

GHURA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If GHURA determines that third-party documents provided by the family are not acceptable, GHURA will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, GHURA will obtain one statement that reflects the current balance of the account.

When pay stubs are used, GHURA will require the family to provide the two most current, consecutive pay stubs. At GHURA's discretion, if additional pay stubs are needed due to the family's circumstances (e.g. sporadic income, fluctuating schedule, etc.), GHURA may request additional pay stubs or a payroll record.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM  
[Notice H 2023-10]**

This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. This is known as “traditional third-party verification.” PHAs send a PHA-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The PHA may use this method when higher forms are unavailable or are rejected by the PHA or when the family is unable to provide acceptable verification. The PHA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

**GHURA Policy**

Typically, GHURA will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

However, on a case-by-case basis, GHURA may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**7-I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice H 2023-10]**

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The PHA may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

**GHURA Policy**

In general, GHURA will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within 10 business days, GHURA will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if GHURA chooses to obtain oral third-party verification, GHURA will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

**When Third-Party Verification is Not Required [Notice H 2023-10]**

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

**GHURA Policy**

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

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

***Primary Documents***

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

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice H 2023-10]**

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded;
- Net family assets total \$50,000 or less and the PHA has adopted a policy to accept self-certification;
- The family declares that they do not have any present ownership in any real property;
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income.

When the PHA was required to obtain third-party verification but instead relies on self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

**GHURA Policy**

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

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

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

All self-certifications will include the following language:

“I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802).”

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**PART II: VERIFYING FAMILY INFORMATION**

**7-II.A. VERIFICATION OF LEGAL IDENTITY**

**GHURA Policy**

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

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

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

If none of these documents can be provided and at GHURA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to GHURA and be signed by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where GHURA has a reason to doubt the identity of a person representing themselves to be tenant or a member of a tenant family.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216; Notice H 2023-10]**

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

The PHA must accept the following documentation as acceptable evidence of the Social Security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While PHAs 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 PHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the PHA 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 PHA 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.

### **GHURA Policy**

GHURA will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

The PHA may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, or illegible, or if the document appears to be forged.

### **GHURA Policy**

GHURA will explain to the applicant or resident the reason the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to GHURA within 90 days.

## Guam Elderly Housing (Guma Trankilidat) Tenant Selection Plan

For applicant families, if all household members have not disclosed and/or provided verification of SSNs for all household members at the time a unit is available and offered to the household, the next eligible applicant will be offered the available unit. The applicant family that has not disclosed SSNs for all household members must disclose and provide verification of SSNs for all household members within 90 days of the date of they are first offered a unit, during which time, the family may remain on the waiting list. If after 90 days of the first unit offer the applicant has not provided the SSN and verification documentation, the applicant will be determined ineligible and removed from the waiting list.

If an applicant family includes a child under six years of age who joined the household within the six months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

When a resident requests to add a new household member who is at least six years of age, or who is under the age of six and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of six and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

Social security numbers must be verified only once during continuously assisted occupancy.

### **GHURA Policy**

GHURA will verify each disclosed SSN by:

- Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers

- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the PHA may remove and destroy copies of documentation accepted as evidence of Social Security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

### **GHURA Policy**

Once an individual's status is classified as "verified" in HUD's EIV system, GHURA will not remove copies of documentation accepted as evidence of Social Security numbers.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### **7-II.C. DOCUMENTATION OF AGE**

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

#### **GHURA Policy**

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

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

### **7-II.D. FAMILY RELATIONSHIPS**

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

#### **GHURA Policy**

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

#### **Marriage**

##### **GHURA Policy**

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

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

#### **Separation or Divorce**

##### **GHURA Policy**

Certification by the head of household is normally sufficient verification. If GHURA has reasonable doubts about a separation or divorce, GHURA will require the family to provide documentation of the divorce, or separation with a certified copy of a divorce decree, signed by a court officer; a copy of a court-ordered maintenance or other court record; or other documentation that shows a couple is divorced or separated.

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

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Absence of Adult Member**

**GHURA Policy**

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

**Foster Children and Foster Adults**

**GHURA Policy**

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

**7-II.E. VERIFICATION OF STUDENT STATUS**

**General Requirements**

**GHURA Policy**

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

- The family reports full-time student status for an adult other than the head, spouse, or co-head.
- The family reports child care expenses to enable a family member to further his or her education.
- The family includes a student enrolled in an *institution of higher education*.

If GHURA cannot verify at least one of these exemption criteria, GHURA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, GHURA will then proceed to verify either the student's parents' income eligibility (see Section 3-I.Q.) or the student's independence from his/her parents.

**7-II.F. DOCUMENTATION OF DISABILITY**

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at [www.os.dhhs.gov](http://www.os.dhhs.gov).

## Guam Elderly Housing (Guma Trankilidat) Tenant Selection Plan

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

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

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

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

#### **GHURA Policy**

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

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

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603, necessary to qualify for waiting list of certain income disallowances and deductions.

#### **GHURA Policy**

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

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]**

### Overview

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

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

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

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

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

#### **GHURA Policy**

Family members who claim U.S. citizenship or national status will be required to provide additional documentation unless GHURA receives information indicating that an individual's declaration may not be accurate.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Eligible Immigrants**

***Documents Required***

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

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

***PHA Verification***

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

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**PART III: VERIFYING INCOME AND ASSETS**

Chapter 5, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides GHURA policies that supplement the general verification procedures specified in Part I of this chapter.

**7-III.A. EARNED INCOME**

**Tips**

**GHURA Policy**

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

**Wages**

**GHURA's Policy**

For wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### **7-III.B. BUSINESS AND SELF-EMPLOYMENT INCOME**

The PHA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

#### **GHURA Policy**

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

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

For those employed in “gig employment” (i.e., those in formal agreement with on-demand companies such as Uber, Lyft, or DoorDash), GHURA will provide format for the individual to declare their income and expenses. GHURA will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as Schedule C of the individual’s tax return and the corresponding IRS Form 1099 or 1099k.

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

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

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

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### **7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS**

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 7.

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

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their SS and/or SSI benefit letter (dated within the last 120 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the applicant request a benefit verification letter form SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the PHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV displays the amount as \$450.00. The PHA must use the EIV reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the last 120 calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the participant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.
- Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### **7-III.D. ALIMONY OR CHILD SUPPORT [Notice H 2023-10]**

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

#### **GHURA Policy**

The methods GHURA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it *receives regular payments*, verification will be obtained in the following order of priority:

- Copies of the receipts and/or payment stubs for the 12 months prior to GHURA’s request

- Third-party verification form from the state or local child support enforcement agency

- Third-party verification form from the person paying the support

- Family’s self-certification of amount received.

In addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

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

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

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

### **7-III.E. NONRECURRING INCOME [Notice H 2023-10]**

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. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

#### **GHURA Policy**

GHURA will accept self-certification from the family stating that income will not be repeated in the coming year. However, GHURA may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## 7-III.F. ASSETS AND INCOME FROM ASSETS

### Net Family Assets [24 CFR 5.603; Notice H 2023-10]

For families with net assets totaling \$50,000 or less (adjusted annually for inflation), the PHA may, but is not required to, accept the family's self-certification that the family's assets do not exceed \$50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b). This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), may generate asset income. The PHA may not calculate or include any imputed income from assets when net family assets total \$50,000 or less (adjusted annually for inflation). PHAs must clarify during the self-certification process which assets are included or excluded from net family assets.

For PHAs that choose to accept self-certification, the PHA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over \$50,000 (adjusted annually for inflation), the PHA may not rely on the family's self-certification. Third-party verification of assets is required. Income from assets in this situation is calculated using the following methods:

- If actual returns can be calculated for an asset, the PHA must include actual income from the asset.
- If actual returns cannot be calculated, the PHA must calculate imputed returns using the HUD-determined passbook rate, which is subject to change annually for inflation. Imputed income is calculated by multiplying the net cash value of the asset, after deducting reasonable costs that would be incurred in disposing of the asset, by the HUD-published passbook rate.
- If the PHA can compute actual income from some but not all assets, the PHA must compute actual returns where possible and use the HUD-determined passbook rate where actual income cannot be calculated.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

**GHURA Policy**

For families with net assets totaling \$50,000 or less, GHURA will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration. GHURA reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, GHURA will use the current balance as reflected on the most recent bank statement.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, GHURA will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2); Notice H 2023-10]**

The PHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation. The PHA may accept a self-certification from the family stating that the family does not have any present ownership in any real property. If the family certifies that they do not have any present ownership interest in real property, the PHA may take that as sufficient to determine the family is not out of compliance with the real property restriction. If the family declares they have present ownership in real property, the PHA must obtain third-party verification of the family's legal right to reside in the property, the effective legal authority to sell the property, and whether the property is suitable for occupancy by the family as a residence

**GHURA Policy**

Both at admission and reexam, GHURA will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. GHURA reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, GHURA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, GHURA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### 7-III.G. Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value. The PHA needs to verify only those certifications that warrant documentation.

#### **GHURA Policy**

GHURA will verify the value of assets disposed of only if:

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

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

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

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

### 7-III.H. NET INCOME FROM RENTAL PROPERTY

#### **GHURA Policy**

The family must provide:

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

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, GHURA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS [Notice H 2023-10]**

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000.

**7-III.J. RETIREMENT ACCOUNTS**

**GHURA Policy**

GHURA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts to which the family has access.

The type of original document that will be accepted depends upon the family member's retirement status.

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

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

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



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### 7-III.K. INCOME FROM EXCLUDED SOURCES [Notice H 2023-10]

A detailed discussion of excluded income is provided in Chapter 5, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is not required to verify the income using third-party verification, document why third-party verification is not available, or report the income on the 50059. Fully excluded income is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any Federal Register notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA is required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50059. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

#### **GHURA Policy**

GHURA will accept the family's self-certification as verification of fully excluded income.

GHURA may request additional documentation if necessary to document the income source.

GHURA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### **7-III.L. ZERO INCOME REVIEWS [Notice H 2023-10]**

A zero-income review is an assessment, sometimes periodic, performed by the PHA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR 5.609(b)(24)(vi)]. PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50059.

#### **GHURA Policy**

GHURA will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc. are not being received by families claiming to have zero annual income.

GHURA will also require that each family member who claims zero income status complete a zero-income verification checklist form [Form RD HB-2-3560 Attachment 6-B]. If any sources of income are identified on the form, GHURA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

GHURA will only conduct interims in accordance with GHURA policy in Chapter 8.

### **7-III.M. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]**

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)]

#### **GHURA Policy**

GHURA will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student. In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, GHURA will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution. If GHURA is unable to obtain third-party written verification of the requested

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

information, GHURA will pursue other forms of verification following the verification hierarchy in section 7-I.B.

### **7-III.N. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS**

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents in accordance with PHA policy [24 CFR 5.612 and FR 4/10/06, p. 18146].

This provision does not apply to students residing with parents who are seeking or receiving assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

#### **GHURA Policy**

If GHURA is required to determine the income eligibility of a student's parents, GHURA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-I.Q.). GHURA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to GHURA. The required information must be submitted (postmarked) within 10 business days of the date of GHURA's request or within any extended timeframe approved by GHURA.

GHURA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

## **PART IV: VERIFYING MANDATORY DEDUCTIONS**

### **7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS**

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

#### **Dependent Deduction**

See Chapter 5 (5-II.B.) for a full discussion of this deduction. The PHA must verify that:

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

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

See Eligibility Chapter 3 for a definition of elderly and disabled families and Chapter 5 (5-II.C.) for a discussion of the deduction. GHURA must verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

### **7-IV.B. HEALTH AND MEDICAL EXPENSE DEDUCTION [24 CFR 5.611(a)(3)(i)]**

Policies related to health and medical expenses are found in Chapter 5, Section 5-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

#### **Amount of Expense**

##### **GHURA Policy**

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

GHURA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. GHURA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

## Guam Elderly Housing (Guma Trankilidat) Tenant Selection Plan

Written third-party verification forms, if the family is unable to provide acceptable documentation.

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

Before placing bills and documentation in the tenant file, GHURA will redact all personally identifiable information.

If GHURA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, GHURA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, GHURA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will GHURA include an applicant's or resident's medical records in file [Notice PIH 2010-26].

In addition, the PHA must verify that:

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

### **Eligible Household**

The health and medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. GHURA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

### **Qualified Expenses**

To be eligible for the health and medical expense deduction, the costs must qualify as medical expenses. See Chapter 5 (5-II.D.) for GHURA's policy on what counts as a medical expense.

### **Unreimbursed Expenses**

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

### **GHURA Policy**

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

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Expenses Incurred in Past Years**

**GHURA Policy**

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

- The anticipated repayment schedule;
- The amounts paid in the past; and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years.

**7-IV.C. DISABILITY ASSISTANCE EXPENSES**

Policies related to disability assistance expenses are found in 5-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

**Amount of Expense**

***Attendant Care***

**GHURA Policy**

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled checks.

Third-party verification form signed by the provider, if family-provided documents are not available.

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

Before placing bills and documentation in the tenant file, GHURA will redact all personally identifiable information.

If GHURA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, GHURA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, GHURA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will GHURA include an applicant's or resident's medical records in the file.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

*Auxiliary Apparatus*

**GHURA Policy**

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

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

In addition, GHURA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F. above).
- The expense permits a family member, or members, to work (as described in 5- II.E.).
- The expense is not reimbursed from another source (as described in 5-II.E.).

**Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. GHURA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

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

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

**GHURA Policy**

GHURA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

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

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Unreimbursed Expenses**

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

**GHURA Policy**

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

**7-IV.D. CHILD CARE EXPENSES**

Policies related to child care expenses are found in Chapter 5 (5-II.F.). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, GHURA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable.

**Eligible Child**

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. GHURA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C).

**Unreimbursed Expense**

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

**GHURA Policy**

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



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Pursuing an Eligible Activity**

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

**GHURA Policy**

*Information to be Gathered*

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

*Seeking Work*

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

In the event third-party verification is not available, GHURA will accept a self-certification of job search efforts.

*Furthering Education*

GHURA will request third-party documentation to verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

*Gainful Employment*

GHURA will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Allowable Type of Child Care**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 5.

**GHURA Policy**

GHURA will verify that the type of child care selected by the family is allowable, as described in Chapter 5 (5-II.F.).

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

GHURA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

**Reasonableness of Expenses**

Only reasonable child care costs can be deducted.

**GHURA Policy**

The actual costs the family incurs will be compared with GHURA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

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

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS**

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

## Chapter 8 RECERTIFICATION, UNIT TRANSFERS, AND GROSS RENT CHANGES

### INTRODUCTION

The PHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim Recertifications are also needed in certain situations. This chapter discusses both annual and interim Recertifications, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and GHURA policies concerning Recertifications are presented in three parts:

**Part I: Annual Recertification.** This part discusses the requirements that PHAs must conduct annual recertifications of income and family composition in order to recalculate the tenant's Total Tenant Payment (TTP).

**Part II: Interim Recertification.** This part details the requirements and procedures for performing interim recertifications when families' experiences changes in family income and/or composition between annual recertifications.

**Part III: Unit Transfers.** This part discusses requirements and procedures that owners must follow when an existing tenant transfers to a different unit in the property.

**Part IV: Gross Rent Changes.** This part describes the required procedures that GHURA must follow before making changes in the unit rents or utility allowances.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this Tenant Selection Plan, apply to both Annual and Interim Recertifications.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **PART I: ANNUAL RECERTIFICATIONS [HUD Occ. Handbook 4350.3]**

### **8-I.A. OVERVIEW**

PHAs must conduct a recertification of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for Annual Recertifications, the information to be collected and verified, and Annual Recertification effective dates.

Unlike when performing an interim recertification or at intake, at annual recertification, the PHA must determine the income of the family for the previous 12-month period, except where the PHA uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice H 2023-10]. PHAs also have the option of using a "safe harbor" income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the PHA's policies related to streamlined income determinations and the use of safe harbor income verifications.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**8-I.B. STREAMLINED ANNUAL RECERTIFICATIONS [24 CFR 5.657; Notice H 2016-09]**

HUD permits PHAs to streamline the income determination process for family members with fixed source of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources. If at least 90 percent of the family's income is from fixed sources, the PHA may streamline the verification of fixed income but is not required to verify non-fixed income amounts. If the family receives less than 90 percent of its income from fixed sources, the PHA may streamline the verification of fixed income and must verify non-fixed income annually.

**GHURA Policy**

GHURA will streamline the annual recertification process by applying the verified COLA or interest rate to fixed income sources. GHURA will document in the file how the determination that a source of income was fixed was made.

If a family member with fixed source of income is added, GHRUA will use third-party verification of all income amounts for that family member.

If verification of the COLA or rate of interest is not available, GHURA will obtain third-party verification of income amounts.

Third-party verification of fixed sources of income will be obtained during the intake process and at least once every three years thereafter.

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **8-I.C. SCHEDULING ANNUAL RECERTIFICATIONS**

The PHA must establish a policy to ensure that the Annual Recertification for each family is completed *within* a 12-month period, and may require Recertifications more frequently.

### **GHURA Policy**

GHURA will begin the Annual Recertification process 120 days in advance of its scheduled effective date. Generally, GHURA will schedule Annual Recertification effective dates to coincide with the family's anniversary date.

*Anniversary date* is defined as 12 months from the effective date of the family's last Annual Recertification or, during a family's first year in the program, from the effective date of the family's Initial Examination (Admission).

If the family moves to a new unit, GHURA will perform a New Recertification.

GHURA also may schedule an Annual Recertification for completion prior to the anniversary date for administrative purposes.

### **Notification of and Participation in the Annual Recertification Process**

The PHA is required to obtain the information needed to conduct Annual Recertifications. How that information will be collected is left to the discretion of the PHA. However, PHAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

### **GHURA Policy**

Families generally are required to participate in an annual Recertification interview, which must be attended by the head of household and spouse or co-head. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact GHURA to request a reasonable accommodation (see Chapter 2).

Notification of annual Recertification interviews will be sent by first-class mail 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 the family is unable to attend a scheduled interview, the family should contact GHURA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, GHURA will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without GHURA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 10) will be sent to the family's address of record, and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and GHURA must execute a certification attesting to the role and assistance of any such third party.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### **8-I.D. CONDUCTING ANNUAL RECERTIFICATIONS**

As part of the annual recertification process, families are required to provide updated information to the PHA regarding the family's income, expenses, and composition [HUD Occ. Handbook 4350.3]

#### **GHURA Policy**

Families will be asked to bring all required information (as described in the recertification notice) to the Recertification appointment. The required information will include a GHURA-designated Recertification form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

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 family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be sent a notice of termination (See Chapter 10).

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**8-I.E. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(c)(2) and Notice H 2023-10]**

The PHA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where the PHA uses a streamlined income determination as indicated in Chapter 7 of this policy. The PHA may also use Safe harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination as outlined in Chapter 7 of this policy.

Except when using streamlined or safe harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with PHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

Income from assets is always anticipated, irrespective of the income examination type.

A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The PHA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for PHA policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice H 2023-10 lists the following steps to calculate both earned and unearned income at annual reexamination.

**Step 1:** The PHA determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50059; and
- The amount of prior-year income reported by the family on the PHA's annual reexamination paperwork.

**Step 2:** The PHA takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, the PHA must use the annual income from the interim to determine the family's total annual income, provided there are no additional changes.
- If the PHA did not perform an interim or there have been changes since the last reexamination, the PHA moves to Step3.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

Step 3: If there were changes in annual income not processed by the PHA since the last reexamination, the PHA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income. For example, the PHA may use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the PHA, for example:
  - Year-end statements
  - Paycheck with year-to-date amounts
  - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, the PHA must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 9-1 provides detailed examples of how the PHA calculates income from different sources at annual reexamination using the above method.

**GHURA Policy**

When income is calculated using a streamlined income determination or Safe Harbor determination from a means-tested federal public assistance program in accordance with PHA policies in Chapter 7, the above is not applicable. However, where the family disagrees with GHURA or other agency's determination of income or GHURA has other reason to use third-party verification in these circumstances, then the above will apply.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **8-I.F. OTHER CONSIDERATIONS**

### **Criminal Background Checks**

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Chapter 10.

#### **GHURA Policy**

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual recertification process.

Additionally, HUD recommends that at annual recertifications PHAs ask whether the tenant, or any member of the tenant's household is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

#### **GHURA Policy**

At the annual recertification, GHURA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state or territory. GHURA will use the Dru Sjodin National Sex Offender database to verify the information provided by tenant.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination [24 CFR 5.903(f) and 5.905(d)].

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### **8-I.G. EFFECTIVE DATES [24 CFR 5.657 and HUD Handbook 4350.3]**

The PHA must establish policies concerning the effective date of changes that result from an annual recertification.

#### **GHURA Policy**

In general, an *increase* in the family share of the rent that results from an annual recertification will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

- 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 a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.
- If GHURA chooses to schedule an annual recertification for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by GHURA, but will always allow for the 30-day notice period.
- If the family causes a delay in processing the annual recertification, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual recertification. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 10.

In general, a *decrease* in the family share of the rent that results from an annual recertification will take effect on the family's anniversary date.

- If a family moves to a new unit, the decrease will take effect on the effective date of the new lease.
- If GHURA chooses to schedule an annual recertification for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by GHURA.
- If the family causes a delay in processing the annual recertification, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the recertification processing.

Delays in recertification processing are considered to be caused by the family if the family fails to provide information requested by GHURA by the date specified, and this delay prevents GHURA from completing the recertification as scheduled.

## **PART II: INTERIM RECERTIFICATIONS [HUD Occ. Guidebook 4350.3; 24 CFR 5.657; Notice H 2023-10]**

### **8-II.A. OVERVIEW**

Family circumstances may change throughout the period between annual recertifications. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim recertifications to reflect those changes. HUD regulations also permit PHAs to conduct interim recertifications of income or family composition at any time. When an interim recertification is conducted, only those factors that have changed are verified and adjusted.

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. PHAs must complete the interim recertification within a reasonable time after the family's request.

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim recertification not long than 30 days after the PHA becomes aware of changes in income.

Notice H 2023-10 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## 8-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

PHAs must require families to report household composition changes; however, PHAs determine the time frame in which reporting happens [Notice H 2023-10]. The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

### **GHURA Policy**

GHURA will not approve the addition of a new family or household member unless the individual meets GHURA's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7).

If GHURA determines an individual meets GHURA's eligibility criteria and documentation requirements, GHURA will conduct interim reexamination to account for any changes in household composition that occur between annual reexamination.

If GHURA determines that an individual does not meet GHURA's eligibility criteria or documentation requirements, GHURA 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.

GHURA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**New Family and Household Members Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

The PHA may adopt reasonable policies concerning residence by a foster child or a live-in aide and defining the circumstances in which PHA consent will be given or denied. Under such policies, the factors considered by the PHA may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- The PHA's obligation to make reasonable accommodation for persons with disabilities.

**GHURA Policy**

Families must request GHURA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the PHA prior to the individual moving into the unit.

If adding a person to a household (other than a child by birth, adoption, or court-awarded custody) will require a transfer to a larger size unit (under the transfer policy in Chapter 12), GHURA will approve the addition only if the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by GHURA. Exceptions will be made on a case-by-case basis.

GHURA will not approve the addition of a new family or household member unless the individual meets GHURA's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If GHURA determines that an individual does not meet GHURA's eligibility criteria or documentation requirements, GHURA 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.

GHURA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Departure of a Family or Household Member**

Families must promptly notify the PHA if any family and or household member (including a live-in aide, foster child, or foster adult) no longer lives in the unit. The PHA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

**GHURA Policy**

If a household member ceases to reside in the unit, the family must inform GHURA within 10 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

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

GHURA will process an interim if the family's adjusted income will decrease as a result of a family member permanently moving out of the unit.

**8-II.C. CHANGES AFFECTING INCOME OR EXPENSES**

Interim Recertifications can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, GHURA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

**PHA-Initiated Interim Recertifications**

PHA-initiated interim recertifications are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

**GHURA Policy**

GHURA will conduct interim recertifications in each of the following instances:

- If the family has reported zero income, GHURA will conduct an interim recertification every month as long as the family continues to report that they have no income.
- If at the time of the annual recertification, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), GHURA will schedule an interim Recertification to coincide with the end of the period for which it is feasible to project income.
- If at the time of the annual recertification, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, GHURA will conduct an interim recertification.

GHURA may conduct an interim Recertification at any time in order to correct an error in a previous recertification, or to investigate a tenant fraud complaint.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### **Family-Initiated Interim Recertifications**

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses. In addition, HUD regulations require that the family be permitted to obtain an interim recertification any time the family has experienced a change in circumstances since the last determination.

#### **GHURA Policy**

Generally, GHURA requires that families report changes in the family's income, expenses, and composition as described in this TSP within 10 calendar days from the date the change occurred. Any information, document or signature needed from the family to verify the change must also be provided within 10 calendar days from the date the change occurred, unless another time frame is specified in the specific policy.

If the change is not reported within the required time period, or if the family fails to provide signatures, certifications or documentation, in the time period required by GHURA, it will be considered program non-compliance and may subject the family to termination from the program.

#### **Interim Decreases | 24 CFR 5.657 and Notice H 2023-10|**

A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination if the PHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The PHA may set a lower threshold in PHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the PHA from setting a dollar-figure threshold.

However, while the PHA has some discretion, HUD requires that the PHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, the PHA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then PHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

#### **GHURA Policy**

GHURA will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Interim Increases [24 CFR 5.657 and Notice H 2023-10]**

**Increases Less than 10 Percent**

PHAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

**Increases 10 Percent or Greater**

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

**GHURA Policy**

When a family reports an increase in their earned income between annual reexaminations, GHURA will not conduct an interim reexamination, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family's last annual reexamination.

GHURA will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

GHURA will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with GHURA policies in Chapter 14.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Concurrent Increases in Earned and Unearned Income [Notice H 2023-10]**

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

**Cumulative Increases [Notice H 2023-10]**

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10- percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

## Guam Elderly Housing (Guma Trankilidat) Tenant Selection Plan

### Family Reporting

The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 5.657].

PHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the PHA may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination [Notice H 2023-10].

When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice H 2023-10].

### GHURA Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 10 business days of the date the change takes effect. The family may notify GHURA of changes either orally or in writing. If the family provides oral notice, GHURA may also require the family to submit the changes in writing.

Within 10 business days of the family reporting the change, GHURA will determine whether the change will require an interim reexamination.

If the change will not result in an interim reexamination, GHURA will note the information in the tenant file but will not conduct an interim reexamination. GHURA will send the family written notification within 10 business days of making this determination informing the family that GHURA will not conduct an interim reexamination.

If the change will result in an interim reexamination, GHURA will determine the documentation the family will be required to submit based on the type of change reported and GHURA policies in Chapter 7. GHURA will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from GHURA. This time frame may be extended for good cause with GHURA approval. GHURA will accept required documentation by mail, email, fax, or in person. GHURA will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if GHURA determines that an interview is warranted, the family may be required to attend.

## 8-II.E. PROCESSING THE INTERIM RECERTIFICATION

### Method of Reporting

#### GHURA Policy

The family may notify GHURA of changes either orally or in writing. If the family provides oral notice, GHURA may also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim recertification. However, if GHURA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, GHURA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from GHURA. This time frame may be extended for good cause with GHURA approval. GHURA will accept required documentation by mail, by fax, or in person.

## 8-II.F. EFFECTIVE DATES [24 CFR 960.257]

The PHA must establish the time frames in which any changes that result from an interim recertification will take effect. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames.

### Changes Reported Timely [24 CFR 5.611 and Notice 2023-10]

#### GHURA Policy

If the family share of the rent is to *increase*:

GHURA will provide the family a 30-day advance written notice of the rent increase to be effective on the first of the month after the end of that 30-day notice period.

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 overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 11.

If the family share of the rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Changes Not Reported Timely [24 CFR 960.257 and Notice H 2023-10]**

If the family failed to report a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the PHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the PHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may choose to establish conditions or requirements for when such a retroactive application would apply. PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination;  
or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

**GHURA Policy**

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, GHURA will apply the decrease the first of the month following completion of the interim reexamination.

However, GHURA will apply the results of the interim reexamination retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to GHURA management operations. GHURA will decide to apply decreases retroactively on a case-by-case basis.

When GHURA applies the results of interim decreases retroactively, GHURA will clearly communicate the effect of the retroactive GHURA adjustment to the family and may enter into a repayment agreement in accordance with PHA policies.

## **PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT [HUD Occ. Guidebook 4350.3]**

### **8-III.A. OVERVIEW**

After gathering and verifying required information for an annual or interim recertification, the PHA must recalculate the family share of the rent and the subsidy amount, and notify the family of the changes. While the basic policies that govern these calculations are provided in Chapter 5, this part lays out policies that affect these calculations during a recertification.

### **8-III.B. NOTIFICATION OF NEW TENANT RENT**

The PHA must provide a written notice to the family stating any changes in the amount of the tenant rent, and when the change is effective.

When the PHA redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, the PHA must notify the tenant that the tenant may ask for an explanation stating the specific grounds of the PHA determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request an informal hearing under the PHA's grievance procedure.

The family must be given an opportunity for an informal hearing regarding the PHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment (see Chapter 10).

#### **GHURA Policy**

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

### **8-III.C. DISCREPANCIES**

During an annual or interim recertification, GHURA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, GHURA may discover errors made by GHURA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**PART IV: NON-INTERIM REEXAMINATION TRANSACTIONS**  
**[Notice H 2023-10]**

Families may experience changes within the household that do not trigger an interim reexamination under PHA policy and HUD regulations but which HUD still requires the PHA to report via Form HUD-50059. These are known as non-interim reexamination transactions. In these cases, PHAs will submit a separate, new action code on Form HUD-50059. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12-month EID period.
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.



Guam Elderly Housing (Guma Trankilidat)  
 Tenant Selection Plan

**EXHIBIT 8-1: CALCULATING INCOME AT ANNUAL REEXAMINATION**

**Example 1: Calculating Annual Income at Annual Reexamination Using EIV**

<p>Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA since the 3/1/2023 annual reexamination. The SSA published 2024 COLA is 7 percent.</p>	
<p>Last reexamination – 3/1/2023 Annual Reexamination</p>	
<p>Ruby: Wages: \$30,000</p>	<p>Georgia: SSI: \$10,980 (\$915 monthly)</p>
<p><u>EIV Report pulled on 12/15/2023</u></p>	
<p>Ruby: Wages Total: \$33,651            Quarter 3 of 2023: \$8,859 (City Public School)            Quarter 2 of 2023: \$8,616 (City Public School)            Quarter 1 of 2023: \$8,823 (City Public School)            Quarter 4 of 2022: \$7,353 (City Public School)</p>	<p>Georgia: SSI Total: \$10,980            2023 benefit \$915 monthly</p>

**Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan**

<b>Income Reported on Reexamination Application</b>	
<p><b>Ruby:</b> Wages at City Public School: \$32,000 (Switched jobs but no permanent change to amount)</p>	<p><b>Georgia:</b> SSI Benefits: \$10,980 (no changes)</p>
<p><b>Calculating Ruby’s wages:</b></p> <p>Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: \$33,651).</p> <p>Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).</p> <p>Step 3: Ruby certifies that the \$33,651 of wages in EIV is accurate and reflects her current annual income, so the PHA will use \$33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income</p>	<p><b>Calculating Georgia’s SSI benefit:</b></p> <p>Step 1: Determine the prior annual income from EIV (i.e., \$915 x 12 months: \$10,980).</p> <p>Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).</p> <p>Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia’s current annual income. The PHA must adjust the prior-year income (2023 SSI benefit) by the 7- percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination:</p> <p>COLA: \$64.05 (\$915 x 0.07)</p> <p>New gross SSI benefit: \$11,748.60 (\$979.05 x 12 months)</p>
<p>If Ruby did not agree with the annual wages reported in EIV, the PHA/MFH Owner would be required to verify her current income in accordance with HUD’s verification hierarchy.</p>	
<p><b>Summary of Annual Income (as reported on the HUD-50059)</b></p>	
<p><b>Ruby (Head of Household):</b></p> <p>Other Wage: \$33,651</p> <p>Myers Family Total Annual Income: \$45,399</p>	<p><b>Georgia (Other Youth Under 18):</b></p> <p>SSI: \$11,748</p>

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

Example 2: Calculating Annual Income at Annual Reexamination

<p>Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from \$200 to \$100 per month, but an interim reexamination was not processed because the reduction in child support income for Samantha’s daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA did not establish a lower threshold. Samantha did not report any additional changes to the PHA.</p>	
<p>Last reexamination – 11/1/2023 Annual Reexamination</p>	
<p><b>Samantha:</b> Business income: \$28,000 VA disability pension: \$12,000 Child support: \$2,400</p>	<p><b>Fergus:</b> Wages: \$8,250 Other non-wage income: \$3,000 (Go Fund Me Online Fundraiser)</p>

EIV Report pulled on 9/16/2024

<p><b>Samantha:</b> Wages Total: \$0 (no wage data reported since Q1 2023)</p>	<p><b>Fergus:</b> Wages Total: \$8,600 Quarter 1 of 2024: \$2,100 (Ian’s Fish n’ Chips) Quarter 1 of 2024: \$500.00 (Claire’s Healthcare Supplies) Quarter 4 of 2023: \$1,000 (Claire’s Healthcare Supplies) Quarter 3 of 2023: \$1,800 (The Onion Garden Shop) Quarter 2 of 2023: \$ 3,200 (Ivar’s Fish Haus)</p>
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Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Current Family Circumstances: Income Reported on Reexamination Application**

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA for the 11/1/2024 annual reexamination.

**Samantha:**

Business income: \$28,750 (last year);  
has decreased to \$18,000 (permanent change)

VA disability benefit: \$12,000 (last year);  
has increased to \$12,300 (permanent change)

Child support: \$2,400 (last year);  
has decreased to \$1,200 (permanent change)

**Fergus:**

Wages: \$6,000

**Calculating Samantha's Net Business Income**

Step 1: Determine prior annual net business income (i.e., \$28,000 on last HUD-50059).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to \$18,000. The PHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is \$18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.

**Calculating Samantha's VA Pension Income**

Step 1: Determine prior annual VA pension income (i.e., \$12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was \$1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing a monthly pension of \$1,025, or \$12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 (\$12,300 in this example).

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

Calculating Samantha's Child Support Income

Step 1: Determine prior annual child support income (i.e., \$2,400 on the last HUD-50059).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from \$200 to \$100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular \$100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined in Step 3 (\$1,200 in this example).

Calculating Fergus' Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: \$8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

**Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan**

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA must verify and adjust to reflect current annual income from wages. Fergus reported \$6,000 in annual income from wages on the annual reexamination from a single employer, Ian’s Fish ‘n’ Chips. The PHA projected annual income of \$7,800 based on the two paystubs for this employer, and EIV shows \$8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA must do the following:

- Resolve the discrepancy between EIV wages, the \$6,000 annual income Fergus reported, and the \$7,800 projected based on the paystubs he provided, and
- Verify he is no longer employed at Claire’s Healthcare Supplies in accordance with HUD’s verification hierarchy and local policies.

The PHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of \$9,000. The PHA verified Fergus was no longer employed at Claire’s Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn \$9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 (\$9,360 in this example).

**Calculating Fergus’ Other Non-Wage Income**

Step 1: Determine prior annual income from other non-wage income (i.e., \$3,000 on the last HUD–50059).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD–50059. The PHA must verify and adjust to reflect current non-wage income. The PHA must verify no income was received through a “Go Fund Me” online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn’t solicited funds online and doesn’t plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of \$0 determined in Step 3.

**Summary of Annual Income (as reported on the HUD-50059)**

<b>Samantha (Head of Household):</b> Own business: \$18,000 Pension: \$12,300 Child support: \$1,200	<b>Fergus (Co-head):</b> Wages: \$9,360
<b>Poole Family Total Annual Income: \$40,860</b>	

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**PART V: UNIT TRANSFERS [HUD Handbook 4350.3; 24 CFR 880.605, 886.125, 886.325, 891.420, 891.620, and 891.760]**

**8-V.A. TRANSFER REQUESTS**

The PHA is required to develop written unit transfer policies in the TSP that include transfer waiting lists, acceptable reasons for transfers, procedures for filling vacancies, and whether unit transfers take priority over applicants from the property waiting list.

The PHA's transfer policy must be reasonable, must ensure that families are not discriminated against based on race, color, religion, sex, national origin, age, familial status, and disability, and must be applied consistently.

**GHURA Policy**

Residents requesting a transfer to another unit will be required to submit a written request for transfer.

In case of a reasonable accommodation transfer, GHURA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, GHURA will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

GHURA will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family, such as documentation of domestic violence, dating violence, sexual assault, or stalking.

GHURA will respond within 10 business days of the submission of the family's request.

The resident will be housed in the next available appropriately sized vacant unit, when they reach the top of the transfer waiting list. The resident understands that this unit will become their permanent residence.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**8-V.B. TYPES OF TRANSFERS**

**GHURA Policy**

The following are the only instances in which a transfer will be approved:

**Emergency Transfers**

Maintenance conditions in the resident's unit, building, or at the site that pose an immediate, verifiable threat to the health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Unit is uninhabitable through no fault of the resident (i.e., fire, flood, tornado, etc.), and emergency transfers under VAWA.

**Uninhabitable Unit**

If there is no vacant unit available in the case of an uninhabitable unit, the resident will be directed to the Red Cross or other appropriate agencies for temporary housing, then rehoused in their original unit after all repair work has been completed.

If more than one resident is displaced due to a fire, flood, tornado, etc., households will be placed in appropriately sized vacant units in order of initial move-in date. If no vacant units are available, the same procedures will be followed as described above.

**Violence Against Women Act (VAWA)**

For a verified incident of domestic violence, dating violence, sexual assault, stalking, or human trafficking. For instances of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the threat may be established through documentation outlined in Chapter 9. In order to request the emergency transfer, the requestor must submit an emergency transfer request form (HUD-5383), although, GHURA may, on a case-by-case basis, waive this requirement and accept a verbal request in order to expedite the transfer process. If GHURA accepts an individual's statement, GHURA will document acceptance of the statement in the individual's file in accordance with Chapter 9 of this TSP.

GHURA will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, stalking, or human trafficking. GHURA will allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available. GHURA defines *immediately available* as a vacant unit that is ready for move-in within a reasonable period of time, not to exceed 60 days.

GHURA has adopted an emergency transfer plan, which is included as Exhibit 8-2 to this plan.

These transfers are mandatory.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**PHA-Required Transfers**

The types of transfers that may be required by the PHA include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, and transfers for demolition, disposition, revitalization, or rehabilitation.

Transfers required by the PHA are mandatory.

**Transfers to Make an Accessible Unit Available**

When a non-accessible unit becomes available, the PHA will transfer a family living in an accessible unit that does not require the accessible features to an available unit that is not accessible. The PHA may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

If a resident is required to transfer to make an accessible unit available, the resident has 30 days after they have been notified that an appropriately sized unit is available for them. If they do not move within that time frame, they are required to pay full market rent in their current unit.

**Transfers for Medical Reasons**

The PHA will transfer a family to alleviate verified medical problems.

**Transfers for Demolition, Disposition, Revitalization, or Rehabilitation**

For households temporarily displaced due to a project involving demolition, disposition, revitalization, or rehabilitation of their current unit, the PHA will comply with all requirements in the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA).

**RAD Requirements**

For households displaced as a direct result of the PHA planning or implementing resident moves due to a conversion of a public housing project under RAD, the PHA will comply with all requirements in the RAD Civil Rights – Relocation Notice H 2016-17.

**Transfers Requested by Residents**

The types of requests for transfers from residents that the PHA will consider are limited to requests for transfers to alleviate verified medical problems of a serious or life-threatening nature, VAWA transfers, and reasonable accommodation, including the need for an accessible unit. No other transfer requests will be considered by the PHA.

Should a resident request a unit transfer as a reasonable accommodation, the PHA will pay the cost of the physical move for the resident as long as doing so does not place an undue financial and administrative burden upon the PHA.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**8-V.C. TRANSFER LIST**

**GHURA Policy**

Emergency transfers will not automatically go on the transfer list. Instead, emergency transfers will be handled immediately, on a case-by-case basis. If the emergency cannot be resolved by a temporary accommodation, and the resident requires a permanent transfer, the family will be placed at the top of the transfer list.

Transfers will be processed in the following order:

1. Emergency transfers (hazardous maintenance conditions, VAWA)
2. High-priority transfers (verified medical condition, and reasonable accommodation)
3. Transfers to alleviate verified medical problems of a serious or life-threatening nature
4. Transfers to make accessible units available
5. Demolition, renovation, etc.
6. Occupancy standards
7. Other O/A-required transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

Transfers will take precedence over waiting list admissions. Existing residents approved to receive Section 8 assistance will also be given priority over external applicants when allocating available Section 8 assistance slots.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**8-V.D. GROSS RENT CHANGES [HUD OCC. Handbook 4350.3]**

Rental assistance provided to the PHA owners through HAP (Housing Assistance Payment) contract with HUD.

HUD provides rental assistance to the PHA owner for each subsidized unit. Gross rent may be adjusted annually by the operating cost adjustment factor (OCAF).

1. A gross rent change may occur due to a rent change only, a change in the utility allowance only, or due to a change in both the rent and utility allowance.
2. PHAs must submit approved gross-rent changes through their software package to the Contract Administrator or to TRACS (Tenant Rental Assistance Certification System).
3. PHAs must provide the tenant a new form HUD50059-A reflecting all changes in rents, utility allowances, total tenant payment, tenant rent, and assistance payments.
4. A copy of the form HUD 50059-A reflecting any change in the tenant rent, utility reimbursement, total tenant payment or assistance payment must be placed in tenant file.

Tenants need only sign and date the form HUD 50059-A if the gross rent change results in a change in the amount of rent the tenant is required to pay or in the utility reimbursement the tenant will receive. PHA owners must sign and date the form HUD 50059-A.

**GHURA Policy**

Any gross rent increase approved by HUD, GHURA will provide an advance 30-day written notice to all residents of the gross rent increase. Gross rent increase take effect every October 1<sup>st</sup>.

Head of Household will be required to sign the partial certification form HUD 50059-A, along with GHURA and will be filed accordingly into each respective tenant folder for records.

The data is then gathered by our System Programmer and submitted to TRACS.

Note: Gross Rent Changes does not affect the Tenant's current rent share unless it is during the time of their Annual Recertification.

## **Chapter 9 VIOLENCE AGAINST WOMAN ACT (VAWA)**

### **9-A. OVERVIEW**

The Violence against Women Reauthorization Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking who are applying for or receiving assistance under the PBRA program. If state or local laws provide greater protection for such victims, those apply in conjunction with VAWA.

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA. In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

In addition to definitions of key terms used in VAWA, this chapter contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality, as well as the PHA's Emergency Transfer Plan required under VAWA.

### **9-B. DEFINITIONS [24 CFR 5.2003]**

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or
  - Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

- The term *domestic violence* includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:
  - The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
  - A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
  - A person with whom the victim shares a child in common
  - A person who commits acts against a youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction
- The term *economic abuse* means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitle, including using coercion, fraud, and manipulation to:
  - Restrict a person's access to money, assets, credit, or financial information
  - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
  - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty.
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

- The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:
  - Internet enabled devices
  - Online spaces and platforms
  - Computers
  - Mobile devices
  - Cameras and imaging programs
  - Apps
  - Location tracking devices
  - Communication technologies
  - Any other emerging technologies

**9-C. NOTIFICATION [24 CFR 5.2005(a)]**

**Notification to Public**

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of its program are aware of their rights under VAWA.

**GHURA Policy**

GHURA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

A notice of the Occupancy Rights Under VAWA to applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD 5380, see Exhibit 9-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation (Exhibit 9-2)

A copy of GHURA's emergency transfer plan (Exhibit 9-3)

A copy of GHURA's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 9-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY)

Contact information for local victim advocacy groups or service providers

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Notification to Applicants and Tenants [24 CFR 5.2005(a)]**

PHAs are required to inform housing applicants and tenants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

The PHA must distribute a notice of VAWA rights, along with the VAWA self-certification from (HUD-5382) at each of these three junctures.

**GHURA Policy**

GHURA will provide all applicants with information about VAWA at the time they request an application for housing assistance. GHURA will also include such information in all notices of denial of assistance.

GHURA will provide all tenants with information about VAWA at the time of admission and at annual reexamination. GHURA will also include such information in all termination of assistance and termination of tenancy (eviction) notices.

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the PHA decides to provide VAWA information to a tenant following an incident of domestic violence, Notice H 2017-05 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

**GHURA Policy**

Whenever GHURA has reason to suspect that providing information about VAWA to a tenant or affiliated individual might place a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking at risk, it will attempt to deliver the information by hand directly to the victim, or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, GHURA may decide not to send mail regarding VAWA protections to the victim's unit if GHURA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, GHURA will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**9-D. VAWA COMPLAINT PROCESSING [Notice FHEO 2023-01]**

A complainant may, not later than one year after an alleged VAWA violation has occurred or terminated, file a complaint with FHEO alleging such violation. If there is a violation that began prior to a year before the complaint is filed, but it continues into the one-year time period, HUD will accept the complaint. FHEO will investigate the complaint if it is timely and FHEO otherwise has jurisdiction. If a complaint is filed more than one year after the alleged violation occurred or terminated, FHEO may, but is not required to, investigate the allegations under the additional authority and procedures described in FHEO 2023-01.

Complaints do not need to allege a violation of the Fair Housing Act for FHEO to accept and investigate the complaint.

**GHURA Policy**

Applicants or tenant families who wish to file a VAWA complaint against GHURA may notify GHURA either orally or in writing.

GHURA will advise the family of their right to file a VAWA complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). GHURA will inform the family that not later than one year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO's online complaint form via mail, email, or telephone.

GHURA will attempt to remedy complaints made against GHURA and will conduct an investigation into all allegations of discrimination.

GHURA will keep a record of all complaints, investigations, notices, and corrective actions.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**9-E. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY**

**Family Breakup**

Except under the following conditions, the PHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, stalking, and human trafficking, see Section 8-F of this plan.)
- If a court determines the disposition of property between members of the assisted family, the PHA is bound by the court's determination of which family members continue to receive assistance.

**GHURA Policy**

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may submit a new application with a new application date if the waiting list is open.

If a family breaks up into two otherwise eligible families while living on the property, only one of the new families will retain occupancy of the unit.

If a court determines the disposition of property between members of an applicant or resident family, GHURA will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, GHURA will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, GHURA will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, including a family member who was forced to leave a HUD-assisted unit as a result of such actual or threatened abuse, and provides documentation in accordance with section 8-F of this TSP; (4) any possible risks to family members as a result of criminal activity; and (5) the recommendations of social service professionals.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**9-F. DOCUMENTATION [24 CFR 5.2007]**

A PHA presented with a claim for initial or continued assistance based on status as a victim or threatened victim of domestic violence, dating violence, sexual assault, stalking, human trafficking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. However, in the case of conflicting certifications, the PHA may require documentation within 30 days from the date of the request [24 CFR 5.2007(a)].

The individual may satisfy the PHA’s request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

- (1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation)
- (2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, stalking, or human trafficking or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider, an attorney, a mental health professional, or a medical professional. The person signing the documentation must attest under penalty of perjury to the person’s belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under “Conflicting Documentation,” nor may it require certification in addition to third-party documentation [24 CFR 5.2007(b)(2)].

**GHURA Policy**

Any request for documentation of domestic violence, dating violence, sexual assault, stalking or human trafficking, will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

GHURA may, at its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, GHURA will consider factors that may contribute to the victim’s inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim’s need to address health or safety issues. Any extension granted by GHURA will be in writing.

Once the victim provides documentation, GHURA will acknowledge receipt of the documentation within 10 business days.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Conflicting Documentation [24 CFR 5.2007(b)(2)]**

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The PHA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the PHA. The PHA must honor any court orders issued to protect the victim or to address the distribution of property. In cases of conflicting information, the PHA may require an applicant or tenant to submit third-party documentation within 30 calendar days of the date of the request for the third-party documentation.

**GHURA Policy**

If presented with conflicting certification documents (two or more forms HUD-5382) from members of the same household, GHURA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(b)(2) and by following any HUD guidance on how such determinations should be made. When requesting third-party documents, GHURA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If GHURA does not receive third-party documentation within the required timeframe (and any extensions), GHURA will deny VAWA protections and will notify the applicant or tenant in writing of the denial.

The individuals requesting relief under VAWA will have 30 calendar days to submit third-party documentation. GHURA may, at its discretion, extend the deadline for 10 business days. Any extension granted by GHURA will be in writing.

**Discretion to Require No Formal Documentation [24 CFR 5.2007(b)(1)(iv)]**

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

**GHURA Policy**

If GHURA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, stalking, or human trafficking, GHURA will document acceptance of the statement or evidence in a separate file, away from the resident's file, in a secure place.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Failure to Provide Documentation [24 CFR 5.2007(a)(2)]**

In order to deny relief for protection under VAWA, the PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

**9-G. CONFIDENTIALITY [24 CFR 5.2007(c)]**

All information provided to the PHA regarding domestic violence, dating violence, sexual assault, stalking, or human trafficking, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

**GHURA Policy**

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, GHURA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**EXHIBIT 9-1: SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE  
AGAINST WOMEN ACT, FORM HUD-5380**

**GUAM HOUSING AND URBAN RENEWAL AUTHORITY<sup>1</sup>  
Notice of Occupancy Rights under the Violence Against Women Act<sup>2</sup>**

To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.<sup>3</sup> The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that the project-based rental assistance (PBRA) program is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

**Protections for Applicants**

If you otherwise qualify for assistance under the project-based rental assistance (PBRA) program, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

**Protections for Tenants**

If you are receiving assistance under the project-based rental assistance (PBRA) program, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the project-based rental assistance (PBRA) program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

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<sup>1</sup> Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

<sup>2</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

<sup>3</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Form HUD-5380

## Guam Elderly Housing (Guma Trankilidat) Tenant Selection Plan

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

### **Removing the Abuser or Perpetrator from the Household**

The Housing Program (HP) may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If the HP chooses to remove the abuser or perpetrator, the HP may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the HP must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, the HP must follow Federal, State, and local eviction procedures. In order to divide a lease, HP may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

### **Moving to Another Unit**

Upon your request, the HP may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the HP may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- 1. You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
- 2. You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form, or may accept another written or oral request.
- 3. You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer, you would suffer violence in the very near future.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

The HP will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The HP's emergency transfer plan provides further information on emergency transfers, and the HP must make a copy of its emergency transfer plan available to you if you ask to see it.

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Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

The HP can, but is not required to, ask you to provide documentation to “certify” that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the HP must be in writing, and the HP must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. The HP may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the HP as documentation. It is your choice which of the following to submit if the HP asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by the HP with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that they believe that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the HP has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the HP does not have to provide you with the protections contained in this notice.

If the HP receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the HP has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the HP does not have to provide you with the protections contained in this notice.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Confidentiality**

The HP must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The HP must not allow any individual administering assistance or other services on behalf of the HP (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

The HP must not enter your information into any shared database or disclose your information to any other entity or individual. The HP, however, may disclose the information provided if:

- You give written permission to the HP to release the information on a time limited basis.
- The HP needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the HP or your landlord to release the information.

VAWA does not limit the HP's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

**Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, HP cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if HP can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

- 1) Would occur within an immediate time frame, and
- 2) Could result in death or serious bodily harm to other tenants or those who work on the property.

If HP can demonstrate the above, HP should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Other Laws**

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

**Non-Compliance with The Requirements of This Notice**

You may report **your PHA for** violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with the U.S Housing and Urban Development (HUD), Telephone: 1-415-489-6524 or 1-800-347-3739 or 1-808-522-8193 (TTY) or Ms. Katherine Taitano, Fair Housing Coordinator at (671) 475-1322 or [katherine@ghura.org](mailto:katherine@ghura.org)

**For Additional Information**

You may view a copy of HUD's final VAWA rule at [www.hud.gov](http://www.hud.gov).

Additionally, HP must make a copy of HUD's VAWA regulations available to you if you ask to see them.

**For questions regarding VAWA, please contact Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program at (671) 646-6301**

**For help regarding an abusive relationship**, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY).

You may also contact on Guam one of the following advocates:

<i>Alee Woman's Shelter, Catholic Social Services (CSS)</i>	(671) 648-5888
<i>Alee Crisis Hotline</i>	(671) 648-4673
<i>Victim Advocate Reaching Out (VARO)</i>	(671) 477-5552
<i>Healing Hearts Crisis Center</i>	(671) 647-5351
<i>Guam Behavioral Health &amp; Wellness Center Crisis Hotline</i>	(671) 647-8833
<i>Guam Legal Services Corporation</i>	(671) 477-9811

**For tenants who are or have been victims of stalking seeking help** may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help or to report a sexual assault or victims of stalking may contact:

<i>Guam Police Department by dialing 911.</i>	
<i>Alee Woman's Shelter, Catholic Social Services (CSS)</i>	(671) 648-5888
<i>Alee Crisis Hotline</i>	(671) 648-4673
<i>Victim Advocate Reaching Out (VARO)</i>	(671) 477-5552
<i>Healing Hearts Crisis Center</i>	(671) 647-5351
<i>Guam Behavioral Health &amp; Wellness Center Crisis Hotline</i>	(671) 647-8833

Attachment: Certification form HUD-5382

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**EXHIBIT 9-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION,  
FORM HUD-5382**

**CERTIFICATION OF  
DOMESTIC VIOLENCE,  
DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING,  
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: \_\_\_\_\_

2. Name of victim: \_\_\_\_\_

3. Your name (if different from victim's): \_\_\_\_\_

4. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

5. Residence of victim: \_\_\_\_\_

6. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

7. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

8. Date(s) and times(s) of incident(s) (if known): \_\_\_\_\_

10. Location of incident(s): \_\_\_\_\_

In your own words, briefly describe the incident(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**EXHIBIT 9-3: SAMPLE EMERGENCY TRANSFER PLAN**

Attachment: Certification form HUD-5382

**GUAM HOUSING AND URBAN RENEWAL AUTHORITY**  
**Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence,**  
**Sexual Assault, or Stalking**  
**Section 8 Project-Based Rental Assistance Program**

**Emergency Transfers**

GHURA is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),<sup>4</sup> the O/A allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.<sup>5</sup> The ability of the O/A to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the O/A has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development

(HUD), the federal agency that oversees that the **Section 8 Project-Based Rental Assistance program** is in compliance with VAWA.

**Eligibility for Emergency Transfers**

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer, if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

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<sup>4</sup> Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking regardless of sex, gender identity, or sexual orientation.

<sup>5</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

**Emergency Transfer Request Documentation**

To request an emergency transfer, the tenant shall notify the PHA's management office and submit a written request for a transfer to **any PHA office**. The PHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the PHA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

The PHA may allow for a verbal statement/self-certification in certain circumstances. While the PHA may request in writing that the victim provide documentation of an occurrence of domestic violence, dating violence, sexual assault, or stalking, third-party documentation may not be required to qualify the tenant for an emergency transfer.

**Confidentiality**

The PHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PHA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. Any request for protection under VAWA will be kept in a file separate from the resident/unit file, and any requests made under VAWA will not be noted in the resident/unit file. Requests made under VAWA will not be notated in any shared database systems. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

## Guam Elderly Housing (Guma Trankilidat) Tenant Selection Plan

### **Emergency Transfer Timing and Availability**

The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the PHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the PHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

### **Emergency Transfers: PBRA Program**

If you are a resident and request an emergency transfer as described in this plan, the PHA will attempt to assist you in moving to a safe unit quickly. The PHA will make exceptions as required to policies restricting moves.

At your request, the PHA will refer you to organizations that may be able to further assist you. You may also request an emergency transfer to the following programs for which you are required to apply for assistance:

- Public Housing Program
- HCV Tenant-based program
- HCV Project-based assistance
- Other programs administered by the PHA (such as state housing programs)

Emergency transfers will not take priority over waiting list admissions for these types of assistance. At your request, the PHA will refer you to organizations that may be able to further assist you.

## Guam Elderly Housing (Guma Trankilidat) Tenant Selection Plan

### Internal and External Transfer Requests

The tenant may request an internal transfer within the same single or scattered site property in which the tenant resides or may request an external move to move out of the property in which they reside. The victim may request both an internal transfer and an external move concurrently if an internal safe unit is not immediately available. The PHA will make all reasonable efforts to assist tenants with requesting both internal transfers and external.

The PHA will allow the tenant to make an internal transfer when a safe unit is not immediately available. The owner defines immediately available as a vacant unit, ready for move-in within a reasonable period of time based on local factors. The PHA will ensure that requests for internal emergency transfers under VAWA are given the same priority already provided to other types of emergency transfer requests. The tenant will be offered the first available vacant unit ready for move-in in the same property or in another building that is part of the same scattered-site property in accordance with this plan. The victim will be allowed to assess the availability of the units and the suitability according to the individual circumstances of the household. If the first unit offered is not suitable due to these circumstances, the PHA will continue to make every effort to provide an alternative unit as soon as one is available that meets the criteria for the household. If an internal transfer is not viable, the PHA will discuss transfer options for external moves with the victim in accordance with this plan.

An external move may be requested when a unit that meets the victim's safety standard is not available at the current property or is not immediately available. If an external move is required, the PHA will, at a minimum, provide the victim with contact information for relevant local service providers, government agencies, and other affordable housing developments in the area. Note that qualifying for an emergency transfer does not guarantee either continued assistance under the current program or an external move to another covered housing program. Emergency transfer requirements do not supersede any eligibility or occupancy requirements that may apply under a covered housing program. Tenants must still meet the eligibility criteria for the property to which they are moving.

### Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

**Attachment:** Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**EXHIBIT 9-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF  
DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING,  
FORM HUD-5383**

**EMERGENCY TRANSFER  
REQUEST FOR CERTAIN  
VICTIMS OF DOMESTIC  
VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

**The requirements you must meet are:**

**(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

**(2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer, you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

**Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan**

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

1. Name of victim requesting an emergency transfer: \_\_\_\_\_
2. Your name (if different from victim's) \_\_\_\_\_
3. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_  
\_\_\_\_\_
4. Name(s) of other family member(s) who would transfer with the victim: \_\_\_\_\_  
\_\_\_\_\_
5. Address of location from which the victim seeks to transfer: \_\_\_\_\_
6. Address or phone number for contacting the victim: \_\_\_\_\_
7. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_
8. Relationship of the accused perpetrator to the victim: \_\_\_\_\_
9. Date(s), Time(s) and location(s) of incident(s): \_\_\_\_\_  
\_\_\_\_\_
10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. \_\_\_\_\_
11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.  
\_\_\_\_\_  
\_\_\_\_\_
12. If voluntarily provided, list any third-party documentation you are providing along with this notice:  
\_\_\_\_\_  
\_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

## Chapter 10 TERMINATION

### INTRODUCTION

HUD regulations specify the reasons for which a PHA can terminate a family's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in four parts:

**Part I: Termination of Assistance.** This part discusses key requirements and procedures regarding when and how a tenant's assistance must be terminated.

**Part II: Termination of Tenancy by Lessees.** This part discusses the tenant's responsibilities when the tenant wishes to terminate tenancy.

**Part III: Termination of Tenancy by the Owner.** This part outlines allowable circumstances for terminating tenancy and the requirements and procedures that owners must follow to terminate a tenant's residency.

**Part IV: Discrepancies, Errors, and Fraud.** This part describes the circumstances when owners must investigate discrepancies and provides guidelines on how to distinguish tenant errors from fraud. It also identifies how to take action.

## **PART I: GROUNDS FOR TERMINATION OF ASSISTANCE**

### **10-I.A. KEY REGULATIONS**

- 24 CFR 5.218 (Penalties for failing to disclose and verify social security and employer identification numbers)
- 24 CFR 5.232 (Penalties for failing to sign consent forms)
- 24 CFR Part 5, Subpart E – Restrictions on Assistance to Noncitizens
- 24 CFR 5.659 (Family information and verification)
- 24 CFR 247.4 (Termination of tenancy notice procedures applied to the termination of assistance notice)

### **10-I.B. APPLICABILITY**

GHURA's authority to remove or terminate assistance is established by the HUD-required lease provision entitled "Removal of Subsidy".

### **10-I.C. KEY REQUIREMENTS: WHEN ASSISTANCE MUST BE TERMINATED**

HUD requires an owner must terminate a tenant's assistance for failure to provide required information during the recertification process and signing consent or verification forms.

#### **GHURA Policy**

GHURA will terminate assistance to a tenant family for the following circumstances:

- Tenant's failure to provide required information for recertification
  - Changes in family composition
  - Changes in income or social security numbers for new family members, etc.
- Tenant's failure to sign/submit required consent and verification forms (HUD-9887 and from HUD-9887-A)
- At Annual Recertification, if it is determined that tenant has an increased ability to pay full contract rent
- Tenant does not meet citizenship requirements (in the event that GHURA encounters delays verifying information provided by the tenant.)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### **10-I.D. PROCEDURES FOR TERMINATING OR REINSTATING ASSISTANCE**

In order to ensure there is no discrimination termination and reinstatement procedures, owners are required to ensure procedures are developed that are consistently applied to all tenants.

GHURA will terminate and reinstate tenant families consistently using the following principles:

#### **GHURA Policy**

##### **A. Terminating Assistance**

- a. Proper notice to the tenant must be provided the following information:
- b. Written notice
  - i. Specific date the assistance will terminate
  - ii. Reason for terminating assistance
  - iii. Amount of rent the tenant will be required to pay
  - iv. Notification that if the tenant fails to pay, GHURA may enforce the termination in court
  - v. The tenant has a right to request within 10 calendar days from the date of the notice a meeting to discuss the termination of assistance

##### **B. Reinstating Assistance**

GHURA may reinstate a tenant's terminated assistance if:

- a. The original termination of assistance was due to
  - i. A tenant's failure to recertify, or
  - ii. A tenant's increased ability to pay
- b. The original termination of assistance was not due to fraud
- c. The tenant submits the required information; and
- d. Assistance is available for the unit.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **10-I.E. TERMINATION OF ASSISTANCE RELATED TO ESTABLISHING CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS**

In accordance with the HUD Occupancy Handbook 4350.3, Chapter 8, 8-7, an owner must not terminate assistance on the basis of ineligible immigration status of a family member for the following reasons:

### **When Assistance Must Not Be Terminated**

- The primary (automated) and secondary (manual) verification search of any immigration documents that were submitted in time has not been completed by the Department of Homeland Security (DHS);
- The family member for whom required evidence has not been submitted has moved from the assisted dwelling;
- The family member who is determined not to have eligible immigration status following DHS verification has moved from the assisted dwelling unit;
- The DHS appeals process under 24 CFR 5.514(3) has not been concluded
- Assistance for mixed family is continued in accordance with 24 CFR 5.516 and 24 CFR 5.518; or
- Deferral of termination of assistance is granted in accordance with 24 CFR 5.516 and 24 CFR 5.518.

### **Termination of Assistance When Unable to Establish Citizenship or Eligible Immigration Status**

- When an owner is unable to establish citizenship or eligible immigration status of family members, assistance to a tenant cannot be terminated until the completion of an informal hearing.
- Within 30 days of a DHS appeal decision or a notice from the owner terminating assistance, a tenant may request that the owner provide a hearing. (See HUD Occupancy Handbook 4350.3, Chapter 8, 8-7 C.2 for detailed hearing procedures.)
- The owner must provide a written final decision based solely on the facts presented at the hearing to the tenant within 14 days of the informal hearing.
- A decision against a tenant member issued in accordance with the requirements listed above does not preclude the tenant from exercising the right to seek redress directly through the judicial process.
- The owner must retain for 5 years documents that may have been submitted by the tenant as part of the DHS appeal or the informal hearing process. (See HUD Occupancy Handbook 4350.3, Chapter 8, 8-7 C.5 for detailed document list.)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Termination of Assistance When a Tenant Allows an Ineligible Individual to Reside in a Unit**

If an owner determines that a tenant knowingly permitted another individual who is not eligible for assistance to reside in the unit on a permanent basis, the owner may terminate the tenant family as follows:

- For a period of not less than 24 months

This provision does not apply if assistance provided to the family was prorated and ineligibility was known and considered.

DRAFT

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **PART II: TERMINATION OF TENANCY BY LESSEES**

### **10-II.A. KEY REGULATIONS**

- 24 CFR §§ 880.606, 884.215, 886.127, 886.327, 891.425, 891.625, and 891.765 Lease Requirements

### **10-II.B. KEY REQUIREMENTS**

In order to terminate tenancy, the tenant is required to provide GHURA with written 30-day notice to vacate the unit.

Note: The regulations for RHS Section 515/8 properties permit either the tenant or the owner to initiate the request to terminate the lease with a 30-day written notice.

#### **GHURA Policy**

Guam Elderly Housing Program (Guma Trankilidat) Multifamily Housing Program is a RHS Section 515/8 property. GHURA or the tenant may terminate the lease with proper written 30-day notice of the unit being vacated.

### **10-II.C. ALLOWABLE USE OF SECURITY DEPOSIT**

If a tenant fails to pay the required rent or if there are tenant damages to the unit, GHURA may use the tenant's security deposit to pay the outstanding rent and/or damages. Any remaining funds will be paid to the tenant. GHURA must follow the requirements outlined in Chapter 6 of this Tenant Selection Plan on guidelines for security deposits.



## **PART III: TERMINATION OF TENANCY BY OWNERS**

### **10-III.A. KEY REGULATIONS**

#### **Termination of Tenancy**

- 24 CFR §§ 5.850-5.852, 5.858-5.861, 5.901, 5.903 and 5.905 (Termination of tenancy in Screening and Eviction for Drug Abuse and Other Criminal Activity; Final Rule)
- 24 CFR §§ 247.3, 880.607, 881.601, and 883.701 (Fraud, minor violations, nonpayment of rent, state or local Landlord and Tenant Act)
- 24 CFR §§ 247.3, 880.607, 881.601, 883.701, and 884.216 (Substantial lease violations)
- 24 CFR §§ 880.607, 881.601, 883.701, and 247.3 (Other good cause)
- 24 CFR §§ 880.607, 881.601, 883.701, and 884.216 (Lease expiration)

#### **Eviction for Drug Abuse and Other Criminal Activity**

- 24 CFR §§ 5.850-5.852, 5.858-5.861, 5.901, 5.903, and 5.905 (Eviction in Screening and Eviction for Drug Abuse and Other Criminal Activity; Final Rule)

Note: These regulatory requirements do not apply to owners of housing assisted by the Rural Housing Service under Section 514 and Section 515 of the Housing Act of 1949.

#### **Providing Notice of Termination of Tenancy**

- 24 CFR § 247.4 Termination Notice
- 24 CFR § 247.6 Eviction

### **10-III.B. OVERVIEW**

HUD established termination procedures for owners to use as a mechanism for ensuring tenants fulfill their obligations and remain compliant with their lease while participating in federally subsidized programs. The termination procedures seek to ensure that tenants are provided due process and that there are consistencies in responding to terminating tenancy.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### **10-III.C. MATERIAL NONCOMPLIANCE WITH THE LEASE [HUD Occupancy Handbook 4350.3, Chapter 8]**

In accordance with HUD's Occupancy Handbook 4350.3, Chapter 8, owners may terminate tenant leases for material noncompliance such as abandonment of unit and fraud.

The following are GHURA's policies for termination of the lease due to material noncompliance.

#### **GHURA Policy**

##### **1. Failure of a tenant to submit required information on household income and composition;**

###### ***Failure to Provide Consent***

GHURA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

###### ***Failure to Document Citizenship***

GHURA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

###### ***Failure to Disclose and Document Social Security Numbers***

GHURA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and GHURA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the GHURA determined the family to be noncompliant.

GHURA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**2. Extended absence or abandonment of the unit;**

***Family Absence from the Unit***

The family may be absent from the unit for brief periods. GHURA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

If the family is absent from the unit for more than 180 consecutive days, and the family does not adequately verify that they are living in the unit, GHURA will terminate the lease for other good cause.

\*\*A tenant may request through a reasonable accommodation, to be absent from the unit more than 180 consecutive calendar days due to a medical operation. GHURA will use its discretion to approve the family's request and verify the scheduled procedure and recovery period. Failure to make this request in writing and receive approval from GHURA will constitute abandonment of unit.

Abandonment of the unit. If the family appears to have vacated the unit without giving proper notice, GHURA will follow Guam landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, GHURA will secure unit immediately to prevent vandalism and other criminal activity.

**3. Fraud**

– when a tenant knowingly provides inaccurate or incomplete information.

**4. Repeated minor violations that:**

- a. Disrupt the livability of the property
- b. Adversely affect the health or safety of any person, or the right of any tenant to the peaceful enjoyment of the property;
- c. Interfere with the management of the property; or
- d. Have an adverse financial effect on the property;
- e. Tenant keeps unauthorized occupants;
- f. Tenant damages, destroys, or defaces the unit or property;
- g. Non-compliance of Lease provisions.

**5. Nonpayment of rent due under the lease.**

## 10-III.D. DRUG ABUSE AND OTHER CRIMINAL ACTIVITY

### **Methamphetamine Manufacture or Production [24 CFR 982.553(b) (1)(ii); 24 CFR 5.858; 24 CFR 5.860]**

The PHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents;
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity; and/or
- Any household member has violated the family's obligation not to engage in violent criminal activity.

### **Marijuana Manufacture, Distribution, or Possession**

*"Though the use of marijuana has been legalized on Guam per the passage of Public Law 35-5, the possession, use, manufacture, cultivation and distribution of marijuana is strictly prohibited on all GHURA properties. The Controlled Substances Act, 21 U.S.C. § 801 et.seq., categorizes marijuana as a Schedule 1 controlled substance, and the manufacture, distribution, or possession of marijuana is illegal under federal law, despite marijuana usage being permitted under Guam law. Marijuana is thus not permitted on GHURA properties."*

### *Use of Illegal Drugs and Alcohol Abuse*

#### **GHURA Policy**

GHURA will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents. GHURA will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

*Currently engaged in* is defined as any use of illegal drugs during the previous six months.

GHURA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

In making its decision to terminate assistance, GHURA may, on a case-by-case basis, choose not to terminate assistance.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

***Drug-Related and Violent Criminal Activity [24 CFR § 5.100]***

*Drug* means a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. § 802).

*Drug-related criminal activity* is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

*Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

**GHURA Policy**

GHURA will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the Multifamily Housing program.

GHURA will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, GHURA may, on a case-by-case basis, choose not to terminate assistance.

**10-III.E. MATERIAL FAILURE TO CARRY OUT OBLIGATIONS UNDER A STATE OR LOCAL LANDLORD AND TENANT ACT**

State and local laws impose obligations on a landlord and tenant and provide that violations of the tenant's obligations constitute grounds for eviction.

Examples of a tenant's failure to fulfill his/her obligation under a State or Local Landlord and Tenant Act include but are not limited to:

- Overcrowding a unit in violation of the local housing code; and
- Damaging, destroying, or defacing a unit to such extent that the unit is no longer in compliance with the housing code.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### 10-III.F. OTHER GOOD CAUSE

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance. The Violence against Women Act of 2005 explicitly prohibits PHAs from considering incidents of, or criminal activity directly related to, domestic violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such abuse.

#### **GHURA Policy**

GHURA **will** terminate a family's assistance if:

- The family has failed to comply with any family obligations under the program.
- Any family member has been evicted from federally-assisted housing in the last five years.
- Any PHA has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family has breached the terms of a repayment agreement entered into with GHURA.
- A second incident of violating the family obligations after the family has received counseling from GHURA will result in a termination.
- A family member has engaged in or threatened violent or abusive behavior toward GHURA personnel.

*Abusive or violent behavior towards GHURA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

*Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, GHURA may, on a case-by-case basis, choose not to terminate assistance.

## **PART IV: DISCREPANCIES, ERRORS, AND FRAUD**

### **10-IV.A. PROCEDURES FOR ADDRESSING DISCREPANCIES AND ERRORS**

#### **OVERVIEW**

To promote income and rent integrity, owners must investigate and research discrepancies and possible errors.

PHAs must use HUD's Enterprise Income Verification (EIV) system as a tool to identify possible discrepancies in income reported by the tenant as well as identifying tenants who may be deceased or receiving assistance at more than one location or under more than one HUD rental assistance program.

#### **Program Violations**

When an error involving a tenant is discovered, PHAs should first determine if the error constitutes a program violation.

A program violation occurs when the tenant by action or inaction breaches a lease regulation, or other program requirement. Tenant errors occur because tenants misunderstand or forget rules. Tenant errors are thought of as unintentional program violations.

The immediate objective is to determine income and rent correctly.

#### **GHURA Policy**

GHURA will conduct the following steps to determine income and rent correctly.

1. Identify if the error involving the tenant constitutes a program violation (a breach of the lease, regulation, or other program requirement.)
2. Investigate and review the facts.
3. Notify and Meet with the Tenant within 10 days to discuss the allegations.
4. Determine the Outcome of the Investigation.

If GHURA has determined that the tenant knowingly provided inaccurate or incomplete information, GHURA may pursue the incident as fraud.

### **10-IV.B. PROCEDURES FOR ADDRESSING FRAUD**

If after following the steps outlined in 10-IV.A, GHURA determines that the tenant has knowingly provided inaccurate or incomplete information and considers that a tenant has committed fraud, GHURA may take the following actions:

1. Terminate tenancy
2. File civil and /or criminal action
3. Take civil action against the tenant to recover improper subsidy payments.

## **10-IV.C. DISCREPANCIES REPORTED IN THE ENTERPRISE INCOME VERIFICATION (EIV)**

### **Requirements Regarding Wage and Income Information Discrepancies**

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a tool for preventing errors and program abuse. PHAs are required to use the EIV system at annual reexamination in accordance with HUD administrative guidance [24 CFR 5.233].

PHAs must review and resolve any discrepancies reported in the EIV system that could result in errors in a tenant's rent and/or HUD assistance payments.

### **EIV Reports**

#### ***Income Discrepancy Report***

Using this report, PHAs will identify any income not reported or underreporting of income by the tenant reported on current or historical HUD 50059 recertifications.

#### ***EIV Verification Reports***

PHAs must review and resolve any discrepancies in the information reported on the following reports to identify tenants who may be receiving assistance they are not entitled to receive.

*Deceased Tenant Report* – Tenants reported by SSA as being deceased.

*Multiple Subsidy Report* – Tenants who may be receiving rental assistance at more than one location.

**Note:** The reports in EIV are a tool to alert PHAs of possible discrepancies. Not all EIV discrepancies reported are valid discrepancies.

PHAs may not suspend, terminate, reduce or make a final denial of any benefits of a tenant until they have taken appropriate steps to independently verify information relative to any discrepancy reported.

### **GHURA Policy**

GHURA will conduct the following steps to resolve any discrepancies reported:

1. Investigate and review the facts.
2. Notify and Meet with the Tenant within 10 days to discuss the discrepancies
3. Determine the Outcome of the Investigation.

If GHURA has determined that the tenant knowingly provided inaccurate or incomplete information, GHURA may pursue the incident as fraud.



## **10-IV.D. REIMBURSEMENT TO HUD FOR OVERPAYMENT OF ASSISTANCE [HUD Occupancy Handbook, 4350.3, Chapter 8, 8-20]**

### **A. Tenant's Obligation to Repay**

1. The tenant must reimburse the owner for the difference between the rent the tenant should have paid and the rent he/she was actually charged if the tenant:
  - a. Fails to provide the owner with interim changes in income or other factors;
  - b. Submits incorrect information on any application, certification, or recertification; and
  - c. As a result, is charged a rent less than the amount required by HUD's rent formulas.
2. The tenant acknowledges his/her obligation to make such reimbursements
3. If the tenant does not pay in full, an owner should enter into a repayment plan with the tenant to collect these funds over a specific period of time.
4. The tenant is not required to reimburse the owner for under charges cause solely by the owner's failure to follow HUD's procedures for computing rent or assistance payments.
5. A tenant must reimburse the owner for the total overpayment back to the date of admission if the following occurs:
  - a. The applicant submits information on income and family composition as the basis for the owner to make a determination that the applicant is eligible;
  - b. The applicant is admitted as a tenant; and
  - c. It is later determined that the information was incorrect and the tenant was not eligible for assistance.
6. The owner makes an adjustment on the monthly HAP voucher to reflect the amount of the tenant's reimbursement of unauthorized assistance.

### **B. Owner's Obligation to Repay**

1. The owner is not required to reimburse HUD immediately for overpayments of assistance where the overpayment was caused by the tenant's submission of incorrect information. Repayments are required when and as tenants repay in accordance with an agreed-upon repayment plan.
2. The owner must reimburse HUD for all other overpayments of assistance where such overpayments were due to the owner's error or the owner's failure to follow HUD's procedures. HUD or the Contract Administrator may permit the owner to repay such overpayments in one lump sum or over a period of time through reduction of normal housing assistance requisitions if immediate repayment in full would jeopardize the financial condition of the property.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**10-IV.E. REIMBURSEMENT TO TENANT FOR OVERPAYMENT OF RENT {HUD  
Occupancy Handbook 4350.3}**

When an owner reviews a tenant's file and recalculates a tenant's income, an owner may discover that a tenant has been paying a higher amount of rent than should have been charged. In these instances, GHURA will perform the following:

**GHURA Policy**

1. Correct the error and provide notice to the tenant that the error will be corrected retroactively;
2. Inform the tenant the new monthly rent the tenant is required to pay;
3. Inform the tenant of the amount of the overpayment due to the tenant;

GHURA will meet and discuss with the tenant how the overpayments will be applied to future monthly rental payments.

## **Chapter 11 EIV USE AND SECURITY**

### **PART I: INTRODUCTION OF ENTERPRISE INCOME VERIFICATION SYSTEM AND REPORTS**

#### **11-I.A. OVERVIEW**

The PHA will use the EIV system in its entirety as a third-party verification source and to reduce administrative and subsidy payment errors. This policy describes the appropriate use of EIV data and the procedures the PHA will employ to safeguard applicant and resident information in accordance with the regulations and EIV system requirements. The data in EIV will only be used for limited official purposes. All individuals with access to EIV data are expected to comply with the requirements listed in this policy. HUD regulations and GHURA policies concerning EIV use and security are presented in four parts:

**Part I:** Notices, Consent of Disclosure, and requests for EIV printout.

**Part II:** EIV Reports – consist of several system reports, such as Existing Tenant, Identity Verification, Deceased Tenant, New Hires, Multiple Subsidy, Income and Income Discrepancy Reports.

**Part III:** Retention of EIV reports

**Part IV:** Safeguarding and Security of EIV reports

EIV reports will be used by staff in the following situations:

- As part of the applicant eligibility screening
- As part of the regular recertification process
- To identify and resolve income discrepancies

All discrepancies discovered through EIV will be investigated and discussed with the applicant or resident. The PHA will not suspend, terminate, reduce, make a final denial of rental assistance, or take any other adverse action against an individual based solely on the data in EIV. If it is discovered that the applicant or resident has violated the lease or HUD regulations, appropriate action will be taken up to and including termination of assistance and/or tenancy.

EIV information will never be used or maintained in files for programs to which EIV is not applicable. The resident data contained in EIV will not be used for a Low-Income Housing Tax Credit (LIHTC), HOME, or Rural Development (RD) file, or be provided to auditors or staff from the state housing finance agency, participating jurisdiction (PJ), U.S. Department of Agriculture Rural Housing Service (RHS), or any other unauthorized source. EIV information will be maintained separately for any such blended units.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### **11-I.B. NOTIFICATION OF APPLICANTS AND RESIDENTS**

PHAs must verify all income, assets, expenses, deductions, family characteristics, and circumstances that affect family eligibility or level of assistance. All applicants and adult family members are required to sign Forms HUD-9887 and 9887-A, in addition to any PHA-created consent forms that authorize the PHA to collect required verifications. In any case, if an applicant or resident refuses to sign required consent forms, their application will be rejected, or in the case of a resident, they will face termination of assistance and/or tenancy. The PHA must handle any information obtained in accordance with the Privacy Act.

#### **EIV & You Brochure**

All residents and applicants will be provided with a copy of the *EIV & You Brochure* in order to inform them about the EIV system, the data that is available about them in EIV, how the information will be used, and their responsibilities. Applicants will be provided with a copy of the *EIV & You Brochure* at the time they are given the application. Residents will be provided with a copy of the brochure at least annually at the time of their recertification. At move-in and each annual recertification, the resident will sign an acknowledgment of receipt of the brochure.

#### **Forms HUD-9887 and HUD-9887-A**

A current Form HUD-9887, Notice and Consent to the Release of Information to HUD and to an PHA, and HUD-9887-A, Applicant's/Tenant's Consent to the Release of Information – Verification by Owners of Information Supplied by Individuals Who Apply for Housing Assistance, will be on file for all adult family members (and the head, spouse, or cohead regardless of age) before accessing the employment or income data contained in EIV. All applicants must sign the consent forms at admission. All residents must sign consent forms on or after January 1, 2024. A HUD-9987 and 9887-A will only be signed once. Forms will not be submitted to the PHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a member of the family turns 18 years of age; and
- As required by HUD or the owner in this EIV Use and Security Policy, and/or the owner's Tenant Selection Plan (TSP).

#### **GHURA Policy**

The owner will not require family members to sign consent forms other than at admission, except under the above listed circumstances.

The purpose of form HUD-9887 and 9887-A is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

The PHA may obtain any financial record from any financial institution, as the terms *financial record* and *financial institution* are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the PHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed consent forms will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PHA to revoke consent. If a family voluntarily leaves a HUD program, the family's assistance is considered to be terminated, and the signed consent forms will no longer be in effect.

**Family Members Turning 18**

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

**GHURA Policy**

GHURA will set up a reminder system to keep up with all residents who will turn 18 during that year to ensure that the Form HUD-9887 is signed before EIV reports are pulled. Staff will print a birthday report from the software program quarterly to determine who will turn 18 in that quarter. A notice will be sent to each person on the birthday report to sign the Form HUD-9887. The resident must sign the Form HUD-9887 within seven days of turning 18 years of age. If the resident fails to sign the Form HUD-9887, the household is in noncompliance with their lease and their assistance and/or tenancy may be terminated.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

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

Revocation of consent or refusal to sign the consent forms prohibits the owner from requesting and accessing income information and financial records, including pulling EIV reports and using the EIV data to verify income (although the data matches between HUD and other agencies will continue to occur automatically if the family is not terminated from the program).

The owner will not process interim or annual recertifications of income, including when a family's income decreases and the family requests an interim recertification to decrease tenant rent, without the family's executed consent forms. Families have the right to revoke consent by providing written notice to the owner; however, revoking consent may result in termination of assistance or denial of admission.

The owner must notify their local HUD office of a family's revocation of consent.

**GHURA Policy**

GHURA has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with GHURA policy.

In order for a family to revoke their consent, the family must provide written notice to GHURA.

Within 10 business days of the date the family provides written notice, GHURA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, GHURA will notify the local HUD office.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**11-I.C. CONSENT TO DISCLOSE A RESIDENT'S INFORMATION TO ANOTHER PERSON OR ENTITY**

The Federal Privacy Act (5 USC 552a, as amended) prohibits the disclosure of an individual's information to another person without the written consent of such individual. The EIV data of an adult household member may not be shared (or a copy provided or displayed) with another adult household member or a person assisting the resident with the recertification process unless the individual has provided written consent to disclose such information (this includes other family members, guardians, powers of attorney, translators/interpreters, service coordinators, etc.).

If a resident requires that someone assist them during the recertification process, the resident must give written consent by signing a Tenant Consent to Disclose EIV Income Information Form (Exhibit 9-4 in HUD Handbook 4350.3, REV-1, CHG 4). This form will be maintained in the resident file.

Any adult member of the household may be shown how the household's income and rent were determined based on the total household income reported and verified.

**11-I.D. RESIDENT REQUEST FOR EIV PRINTOUT**

The EIV Income Report may be used to verify and calculate income if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information from EIV.

**GHURA Policy**

Other than when EIV Income Reports are provided to residents as described above, if a resident requests a copy of their own EIV printout, a copy will be provided. The staff representative will note on the printout that it is a copy, the date and time provided, who gave the data and who it was given to.

The staff person will make a note in the file any time a copy of the EIV data is obtained by authorized persons and taken off-site. This includes copies provided to the applicant/resident, other internal staff, HUD, the contract administrator (CA), or OIG staff. Under no circumstances will the EIV information be provided to anyone other than those noted in the EIV security policy.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **PART II: EIV REPORTS**

### **11-II.A. OVERVIEW**

EIV reports provide the PHA with employment, wage, unemployment compensation, and Social Security benefit information for residents participating in HUD's assisted housing programs. The information in EIV is derived from the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS) for all residents with valid personal identifying information (name, date of birth (DOB), and Social Security numbers) reported on the Form HUD-50059. This information is used by the PHA to verify employment and income at the time of recertification and to reduce errors in subsidy payments. Invalid data in EIV may result from:

- Human error;
- System error (SSA, HHS, EIV); or
- Identity theft

#### **GHURA Policy**

In cases where attempts to verify information in EIV are unsuccessful, the resident must certify that the information in EIV is invalid and has been wrongly attributed to their personal identifiers. In these cases, the resident will be advised, in writing, to contact the agency providing the information on the report to have that agency remove the invalid data from his or her records. In the meantime, GHURA will use resident-provided documentation to verify relevant status. Copies of all documentation and contacts will be maintained in the resident's file.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**11-II.B. EXISTING TENANT SEARCH REPORT**

HUD requires that the Existing Tenant Search Report be run at the time of processing an applicant family for admission. Applicants may apply for assistance, but the applicant may not move into the property while still assisted in another HUD program.

Staff will generate the report at the time the initial application is being processed as part of the eligibility determination.

The PHA will not assist an applicant if the applicant or member of the applicant's household is currently being assisted at another location. If it is determined that the applicant or members of the applicant household are currently receiving assistance, the PHA will coordinate move-out and move-in dates with the resident and the property at the other location.

**GHURA Policy**

GHURA will generate an Existing Tenant Search Report for all household members listed on the application prior to move-in. If an applicant is currently being assisted, the applicant will be notified in writing that they will be unable to move in until the day after assistance stops at the residence where they are currently receiving subsidy. The resident will be required to provide GHURA with a move-out inspection from the previous residence, signed and dated by both the management of that property and the resident.

Failure to respond to the PHA's requests for additional information and/or providing false or incomplete information will result in denial and removal from the waiting list in accordance with the property's current tenant selection plan (TSP).

A copy of the Existing Tenant Search Report will be printed and maintained with the application. In addition, a copy of any notices to the applicant, letters sent to a the PHA or other housing program attempting to verify the resident is assisted at another location, and any certification signed by the applicant disputing the subsidy information reflected in EIV will be maintained with the application.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### **11-II.C. IDENTITY VERIFICATION REPORTS**

The Summary Report contains information from the current, active certifications contained in TRACS. There are two identity verification reports in this section that will help to determine if the information that is being provided to TRACS is correct. Both reports are required to be run monthly:

The **Failed EIV Pre-screening Report** identifies individuals who did not pass through EIV pre-screening due to missing or invalid SSN, DOB, or last name.

The **Failed Verification Report** (Failed SSA Identity Test) identifies individuals whose SSN, DOB, or last name do not match the SSA database, thus failed the SSA Identity Test.

#### **GHURA Policy**

These reports will be generated by the GHURA quarterly, between 11th and 20th day of the month. Any necessary corrections will be made to the Form HUD-50059 to ensure that accurate information is being transmitted.

Initially, staff will verify that what was reported on the Form HUD-50059 was accurate. If a data entry error is found, any necessary corrections will be made on the last full certification Form HUD-50059. Data entry errors will be corrected within 30 days from the date of the EIV report. The corrected certification must be signed by all adult household members if the correction results in a change to the family's benefits, rent, or URP. Otherwise, if the documentation is in the file that shows the resident reported correctly, the Form HUD-50059 will be noted and placed in the file, showing it was a data entry error.

If the reason for the discrepancy was not a data entry error and cannot be identified after a simple file review, the affected resident will be contacted and notified that the Social Security number, date of birth, and/or last name on the current Form HUD-50059 is producing discrepancies. A copy of the notice to the resident will be placed in the resident file. The resident will have 10 business days to respond to the notice. Failure to respond will result in termination of assistance and/or tenancy in accordance with the lease and HUD guidelines.

The Summary Report will be maintained in the Master File, along with notations on the report about actions taken to resolve any discrepancies noted on the report.

The Failed EIV Prescreening Report and Failed Verification Report (Failed SSA Identity Test) are parts of the Summary Report. These specific reports and all related documentation and notes to support discrepancy resolution will also be maintained in the resident file. All documentation related to specific residents such as corrected Form HUD-50059s, notices to the resident, etc. will be maintained in the resident file.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**11-II.D. DECEASED TENANT REPORT**

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The PHA is required to run the report at least quarterly.

**GHURA Policy**

This report will be generated by GHURA quarterly, between the 11th and the 20th day of the month.

Staff will obtain verification that anyone identified on the report is deceased by contacting that household, the next of kin, or persons listed on the Form HUD-92006, if applicable.

If the resident is verified as deceased, an interim Form HUD-50059 will be processed and signed by all remaining adult household members to remove the deceased individual. If the deceased individual was the sole household member, a move out Form HUD 50059-A will be processed within 14 days from the date of death or at the time designated parties turn in the keys, whichever is sooner.

If the information on the report regarding any resident is incorrect, the resident will be asked to initial the report and will be notified in writing that it is their responsibility to contact the SSA to correct the discrepant information in their database.

The Detail Report, noted with all actions taken, and any related documentation will be maintained in the resident file. The Deceased Tenants Summary Report, also noted with actions taken, will be printed and retained in the Master File, even if the report returns no results.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### **11-II.E. NEW HIRES REPORT**

The New Hires Report provides employment information for residents who may have started a new job and is updated monthly. PHAs must review the New Hires Report at annual recertification except:

- When the PHA uses Safe Harbor verification to determine the family's income
- When the PHA does not require families to undergo interim recertifications (IRs) for income increases after an IR decrease. If the PHA's policy is to require an IR for increases in income after an IR decrease, then the PHA must review the report quarterly after the family's IR decrease.

#### **GHURA Policy**

GHURA does not require families to undergo interim recertifications for increases in income, therefore, GHURA will not review the New Hires Report quarterly. The report will be generated by GHURA at each family's annual recertification, except when the GHURA uses Safe Harbor verification to determine the family's income, as described in GHURA's TSP.

Staff will not deny, suspend, or reduce any benefits of a resident until the PHA has taken appropriate steps to notify the resident in writing of the reported employment, and of the requirement to meet with staff within 10 days of receipt of the notice to discuss the report. A copy of the notice sent to the resident will be placed in the resident file. Resident failure to respond will result in termination of assistance and/or tenancy in accordance with the lease and HUD guidelines.

If the resident does not dispute the report, and did not report the new income timely, staff will request documentation from the resident (e.g., the last 4-6 pay stubs) to calculate wages, or obtain independent third-party verification of information relating to:

- The amount of the wages, other earnings or income, or unemployment compensation involved;
- Whether the resident actually has (or had) access to such wages, other earnings or income, or benefits for his or her own use; and
- The period (or periods) when, or with respect to which, the resident actually received such wages, other earnings or income, or benefits.

The information reported will be reviewed in conjunction with the resident file to determine if there was any unreported income. If necessary, staff will process an interim recertification in accordance with requirements in HUD Handbook 4350.3, REV-1, CHG 4 and the PHA's policies as described in the PHA's TSP.

If the resident disputes the information in EIV, the resident will be required to sign appropriate verification consent forms, and staff will obtain independent third-party verification from the employer named in the report. The resident will be notified of the results of the verification, and based on the information obtained, staff will proceed accordingly.

The New Hires Detail Report and all related or supporting documentation will be maintained in the resident file. The New Hires Summary Report will be maintained in the Master File.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**11-II.F. MULTIPLE SUBSIDY REPORT**

The Multiple Subsidy Report identifies residents receiving assistance at more than one subsidized location. The PHA is required to run the report at least quarterly.

**GHURA Policy**

This report will be generated by GHURA quarterly, between the 11th and 20th day of the month.

Any resident identified on the report will be notified in writing of the dual subsidy issue. The resident will have 10 days to meet with staff to discuss the report. As part of the meeting, the resident will be required to sign appropriate verification release forms. Failure to respond will result in termination of assistance and/or tenancy in accordance with the lease and HUD guidelines.

If the resident disputes the information, they will be required to sign appropriate verification release forms so the PHA or other housing programs named in the report may be contacted.

In the case of a minor child who resides in two HUD-assisted units because of a “split family” where parents share 50-50 custody, the Form HUD-50059 will be corrected to reflect the appropriate code.

**GHURA Policy**

Staff will contact GHURA or other housing programs at the other property as well as both custodial parents to establish which household will receive the dependent allowance. If there is a dispute, GHURA will obtain available documents such as copies of court orders or an IRS return showing which family has claimed the child for income tax purposes.

Staff will also obtain documentation of the custody agreement from the resident and/or from the state agency or court that made the custody determination to determine custody is 50/50, and documentation from the childcare provider that demonstrates the total expense claimed by the two households does not exceed the cost of the childcare.

If it is determined a household member received or attempted to receive dual subsidy, the household member will be required to reimburse HUD for any assistance paid in error. This is considered a material violation of the lease and may result in penalties that include eviction and pursuit of fraud charges. Staff will contact the PHA or Executive Director before taking any such action.

Staff will maintain the Multiple Subsidy Summary Report in the EIV Master File with any actions taken noted on the report, and the Multiple Subsidy Detail Report and related or supporting documentation in the resident file.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**11-II.G. NO INCOME REPORTED ON FORM HUD-50059 REPORT**

The No Income Reported on Form HUD-50059 Report identifies all household members for the recertification month that reported no income as of the last recertification. The report is required to be run in accordance with the PHA's written EIV policies and procedures.

**GHURA Policy**

GHURA will generate this report quarterly and will retain the report.

GHURA will re-verify the status of tenants reporting zero rent quarterly. All zero rent households will be notified of this requirement by sending a notice of the household's obligation to complete a zero-income form in accordance with GHURA's House Rules and requiring the resident to attend an interview. As part of the interview, the resident will be required to fill out a zero-income questionnaire to identify current and potential future sources of income at least quarterly. Based on the information provided by the family and in EIV, staff may require that family members provide verifications or sign release forms in order to obtain additional verification. If unreported income is discovered, staff will correct certifications and follow procedures for repayment agreements as outlined in HUD Handbook 4350.3, REV-1, CHG 4.

**11-II.H. NO INCOME REPORTED BY HEALTH AND HUMAN SERVICES (HHS) OR SOCIAL SECURITY ADMINISTRATION (SSA)**

The No Income Reported by HHS or SSA report identifies tenants who passed the SSA identity test, but no income was reported by HHS or SSA. The report is required to be run in accordance with the PHA's written EIV policies and procedures.

**GHURA Policy**

GHURA will generate this report quarterly and will retain the report.

GHURA will re-verify the status of tenants identified on the No Income Report quarterly. Based on the information provided by the family and in EIV, staff may require that family members provide verifications or sign release forms in order to obtain additional verification. If unreported income is discovered, staff will correct certifications and follow procedures for repayment agreements as outlined in the HUD Handbook 4350.3, REV-1, CHG 4.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**11-II.I. SUMMARY REPORT**

The Summary Report gives a brief income summary for all family members in the household. The report must be used at annual recertification; it is not required at interim reexaminations. PHAs may use the report at other intervals, if desired, as described in the PHA's written EIV policies and procedures.

**GHURA Policy**

This report will be generated by GHURA within 90 days (but no earlier than 75) of the transmission of a move-in to TRACS and at each annual recertification (AR). Once the Summary Report shows an identity verification status of "Verified" for all household members that are required to disclose and document an SSN, it will not be generated again unless there is a change in household composition or there is a change in a household member's identity verification status.

The four possible statuses found on the report include:

- **Verified:** A resident's personal identifiers (last name, SSN, DOB) match the SSA database.
- **Failed:** Resident identifiers do not match the SSA database.
- **Not Verified:** Identifiers have been submitted for matching, but have not been sent by HUD to the SSA for validation or have not yet been matched by the SSA for validation. The report is in progress.
- **Deceased:** The SSA's records indicate the resident is deceased.

If the Summary Report does not show a verified status for all household members, it will be generated as part of each annual recertification process.

This report and supporting documentation will be maintained in the resident file with the certification for which it was generated for the term of tenancy plus three years.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### **11-II.J. INCOME REPORT**

PHAs must use the Income Report for third-party verification of employment and income, generated within 120 days of the effective date of the annual recertification (AR). While PHAs are required to obtain an EIV Income Report for each family any time the PHA conducts an annual recertification, PHAs are not required to use the EIV Income Reports:

- At annual recertifications if the PHA used Safe Harbor verification from another means-tested federal assistance program to determine the family's income as described in the PHA's TSP; or
- During any interim recertifications.

The EIV Income Report is not available for program applicants at admission.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income in accordance with the PHA's TSP. The family must be provided with the information in EIV.

#### **GHURA Policy**

Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, GHURA will obtain the EIV Income Report for all annual recertifications on a monthly basis within 120 days of the effective date of the annual recertification. The report will be generated for every adult household member with the exception of live-in aides.

Income Reports will only be used for interim recertifications as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Since income information is not available for applicants, for all new move-ins, the Income Report will be generated within 90 days (but no earlier than 75 days) after transmission of the move-in certification to TRACS to confirm and validate the income reported by the household.

Staff will obtain independent third-party verification from the source to complement EIV data when:

- The resident disputes the EIV income information
- There is an EIV income discrepancy at the time of annual or interim recertification or at other times as specified in this and other policies
- There is no EIV employment or income data for a resident



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

- There is incomplete EIV employment or income data for a resident and additional information is needed. Examples of additional information include but are not limited to:
  - o Effective date of income (i.e., employment, unemployment compensation, or Social Security benefits)
  - o New employment (i.e., pay rate, number of hours worked per week, pay frequency, hire date, etc.)
  - o Confirmation of change in circumstances (i.e., reduced hours, reduced rate of pay, temporary leave of absence, etc.)

This report, all related or supporting documents, and the applicable Forms HUD-50059 will be maintained in the resident file for the term of tenancy plus three years. After this time, the EIV printout will be destroyed in accordance with the PHA's records destruction policy, as outlined in the EIV Security Policy.

**Using EIV to Verify Social Security Income**

If the resident self-certifies that the amounts in EIV are correct, this will be used to calculate the family's SS or SSI income.

If the resident disputes the amount(s) in EIV, staff will document the dispute and obtain the award letter or other acceptable verification from the resident to determine the amounts the resident is receiving.

**Incorporating Cost of Living Adjustment (COLA) Increase**

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal SS and SSI benefits are adjusted to reflect the increase, if any, in the cost of living.

Effective the day after SSA has announced the COLA, PHAs are required to factor in the COLA when determining SS and SSI annual income for all annual recertifications and interim recertifications of family income that have not yet been completed and will be effective January 1 or later of the upcoming year.

The Medicare Part B premium will be used as part of the health and medical care expense deduction for families that qualify when there is no buy-in date in EIV.

Note: Staff will not contact the SSA for any SS/SSI verifications. The resident will be instructed to request this information if needed.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**11-II.K. INCOME DISCREPANCY REPORT**

The Income Discrepancy Report will be used to monitor and, if necessary, to recalculate tenant rent and assistance. The report will also be used to monitor compliance by providing information about residents who may have failed to report income. This report must be printed at the same time the Income Report is printed. It will be generated annually as part of the annual recertification (AR) process.

HUD will update discrepancy logic in EIV to conform to the requirements of the HOTMA final rule. PHAs are not required to investigate discrepancies generated by the Income Discrepancy Report until HUD updates the logic. HUD will notify PHAs when new reports are ready for use and provide further guidance.

## **PART III: RETENTION OF EIV REPORTS**

### **11-III.A. OVERVIEW**

EIV reports used for verification will be generated and maintained in the resident file or Master File in accordance with EIV recordkeeping requirements. Reports obtained through EIV will be retained in the resident files for the term of tenancy plus three years. Three years after the term of tenancy, EIV reports will be destroyed in accordance with the PHA's record destruction policy via shredding of paper files. Reports in the Master File will be maintained for three years from the date the report was generated, and then destroyed in accordance with this policy.

### **11-III.B. EIV MASTER FILE DOCUMENTS**

PHAs must maintain a Master File that contains copies of HUD-specified EIV reports with related or supporting documentation and/or notations on the reports. The PHA will maintain two separate Master Files.

The following records will be placed in the Master File under permanent records:

- EIV Use Policies
- EIV Security Policy
  - EIV Security Policy Acknowledgement
- Owner Authorization for Coordinators
- Coordinator Access Authorization Form (CAAF)
  - Completed annually by persons with Coordinator access
    - Original and most recent copy
- User Access Authorization Form (UAAF)
  - Completed annually by persons with EIV User access
    - Original and most recent copy
- Cyber Awareness Challenge
  - Completed annually by Users and Coordinators
    - Print and maintain certificate at end of the challenge
- Signed Rules of Behavior (ROBs)
  - EIV Coordinators and Users
  - Persons without EIV access (i.e., auditor, temp office worker, etc.)
- Proof of annual security training for staff who use EIV reports to perform their jobs
- Documentation of termination of EIV Users (former employees)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

The following reports will be placed in the Master File under reports:

- Summary Report
  - Failed EIV Prescreening Report with all required notations and documentation
  - Failed Verification Report (Failed SSA Identity Test) with all required notations and documentation
- Deceased Tenant Report with all required notations and documentation
- New Hires Summary Report with all required notations and documentation
- Multiple Subsidy Report with all required notations and documentation

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **PART IV: SAFEGUARDING AND SECURITY OF EIV REPORTS**

### **11-IV.A. OVERVIEW**

The purpose of this policy is to provide instruction and information to staff, auditors, consultants, contractors and residents on the acceptable use, disposition, and storage of data obtained through the EIV system. This policy has been developed to ensure all EIV data is secure and should be communicated to all persons with access to EIV or EIV data.

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

### **11-IV.B. SAFEGUARDING EIV DATA**

The information processed by any EIV system can include wage and income data about private individuals, as well as identifying information such as Social Security numbers (SSNs), address, and employment information. This policy has been developed to ensure compliance with HUD's security protocol regarding the three safeguarded categories:

#### **Technical Safeguards**

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

#### **Administrative Safeguards**

- Ensure that access rights, roles, and responsibilities are appropriately and adequately assigned.
- Protect copies of sensitive data and destroy system-related records to prevent reconstruction of the contents.
- Ensure authorized release of tenant information consent forms, including HUD-9887/HUD-9887-A and all owner-created release of information forms, are included in all tenant files before accessing and using data.
- Maintain, communicate, and enforce standard operating procedures related to securing EIV data.
- Train staff on security measures and awareness, preventing the unauthorized access and use of data.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Physical Safeguards**

- Establish barriers between unauthorized persons and documents or computer media containing private data.
- Prevent undetected entry into protected areas and documents.
- Notify Coordinators and Security Administrators of system breaches and penetration by unauthorized users and incidents of unauthorized disclosure.

EIV data must not be disclosed (or re-disclosed) to any third parties such as the local welfare office, etc. Willful disclosure or inspection of EIV data can result in civil and criminal penalties.

- Unauthorized disclosure – felony conviction and fine up to \$5,000 or imprisonment up to five years, as well as civil damages
- Unauthorized inspection – misdemeanor penalty of up to \$1,000 and/or one year imprisonment, as well as civil damages

**11-IV.C. SECURITY AWARENESS TRAINING**

Security awareness training is a crucial aspect of ensuring the security of the EIV system and data. Before being granted access to EIV information, each person must be trained in EIV Use and Security Policy and procedures. Additionally, all employees having access to EIV data will be briefed at least annually on the EIV Use and Security Policy and procedures, which require their awareness and compliance. Information related to user access and training will be maintained in the EIV Master File permanent records.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**11-IV.D. PERSONNEL**

**EIV System Coordinators**

Before accessing EIV, the Secure Systems Coordinator will obtain a letter from each property owner indicating that the owner gives permission for the Secure Systems Coordinator to act as the EIV Coordinator. Once that permission is obtained, the Coordinator will:

- Review the EIV training material provided by HUD
- Complete the Cyber Awareness Challenge
- Complete the Security Awareness Training Questionnaire
- Review this EIV Use and Security Policy
- Sign the EIV Rules of Behavior (ROB) Form

Upon completion of these tasks, the EIV Coordinator will submit to HUD the Coordinator Access Authorization forms. Upon receipt of HUD approval, the EIV Coordinator will complete the EIV Coordinator setup process. After initial setup, Coordinators must recertify annually.

EIV Coordinators will be responsible for ensuring compliance with the security policies and procedures outlined in this document. These responsibilities include:

- Maintaining and enforcing the security procedures
- Keeping records and monitoring security issues
- Communicating security information and requirements to appropriate personnel, including coordinating and conducting security awareness training sessions
- Conducting reviews of all user IDs issued to determine if the users still have a valid need to access EIV data, and taking necessary steps to ensure that access rights are revoked or modified as appropriate
- Reporting any evidence of unauthorized access or known security breaches and taking immediate action to address the impact of the breach, including but not limited to prompt notification of the incident by reporting to appropriate parties within the agency as well as the Contract Administrator and/or HUD

User accounts for the EIV system will be provided on a need-to-know basis, with appropriate approval and authorization from a Coordinator.

## Guam Elderly Housing (Guma Trankilidat) Tenant Selection Plan

### **EIV Users**

Before requesting EIV User access, staff will:

- Review the EIV training material provided by HUD
- Participate in training that includes a review of this EIV Use and Security Policy
- Complete the Cyber Awareness Challenge
- Complete the Security Awareness Training Questionnaire
- Sign the EIV Rules of Behavior (ROB) Form

Upon completion of these tasks, the EIV User will submit to the EIV Coordinator the User Access Authorization Form.

*Note: Under no circumstances will the EIV Coordinator process the User Access Authorization Form unless the executed Cyber Awareness Challenge certificate, signed Rules of Behavior, signed EIV Security Policies, and signed EIV Use Policies are attached.*

Once the EIV User information is satisfactorily completed, the EIV Coordinator will complete the appropriate steps to provide EIV access to the User. After initial set-up, Users are required to recertify biannually, and repeat all required security training annually.

The PHA will restrict access to EIV data only to persons whose duties or responsibilities require access. EIV Coordinators are authorized to provide access only to those individuals directly involved in the resident certification process and/or compliance monitoring. EIV Coordinators will carefully review requests for access and certify only those Users who need access in the upcoming six months.

The PHA will maintain a record of EIV Users who have approved access to EIV data. EIV Coordinators will immediately revoke the access rights of those Users who no longer require such access, or modify the access rights if a change in the User's duties or responsibilities indicates a change in the current level of privilege.

### **Non-Users with Access to Physical Files**

Staff with authorized access to files for the purpose of recertification, filing, or other administrative tasks will be required initially and annually to:

- Sign the EIV Rules of Behavior (ROB) Form
- Participate in training that includes a review of the EIV Use and Security Policy
- Complete the Cyber Awareness Challenge



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**11-IV.E. CONSENT FORMS**

Staff will ensure that a copy of Forms HUD-9887 and HUD-9887-A have been signed by each member of the household age 18 years or older, and the head, spouse, or cohead, regardless of age.

**GHURA Policy**

If a household member turns 18 in the middle of a certification cycle, that household member will be required to sign Forms HUD-9887 and HUD-9887-A within 10 days of turning 18 (See HUD-9887-A Fact Sheet for exceptions due to extenuating circumstances).

All Forms HUD-9887 and HUD-9887-A will be maintained in the resident files and updated as part of the annual recertification process.

The HUD-9887-A Fact Sheet will be provided to all adult household members required to sign the form. By signing the Forms HUD-9887 and HUD-9887-A, the applicant/resident authorizes HUD and/or the PHA to obtain and verify income and unemployment compensation information from various sources, including but not limited to the IRS, the Department of Health and Human Services, the Social Security Administration, current and former employers, and state agencies.

**11-IV.F. USER NAMES, PASSWORDS AND PASSWORD CHANGES**

Secure Systems/ EIV passwords will be changed in accordance with HUD Secure Systems requirements. Users will not share user names or passwords with any other employee or with anyone outside the organization. EIV access granted to an employee or authorized User will be immediately revoked when access is no longer required or at termination of that employee to ensure data safety.

Documentation of termination, including time, date, and reason for termination, will be maintained in the EIV Master File permanent records.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **11-IV.G. SECURITY REQUIREMENTS**

### **Computer System Security Requirements**

#### **GHURA Policy**

All computer systems and computers will have password-restricted access. GHURA will also use antivirus software to limit data destruction or unintended transmission via viruses, worms, Trojan horses, or other malicious means. Remote access by computers other than those specifically authorized is prohibited.

Authorized Users of EIV data are directed to avoid leaving EIV data displayed on their computer screens where unauthorized users may view it. A computer will not be left unattended while the User is logged in to Secure Systems. If an authorized User is viewing EIV data and an unauthorized user approaches the work area, the authorized User will lessen the chance of inadvertent disclosure of EIV data by minimizing or closing out the screen on which the EIV data is being displayed.

### **Physical Security Requirements**

The PHA will use a combination of methods to provide physical security for resident file records. The EIV data will be maintained in a locked metal file cabinet within a locked room or office. Resident files will not be left unattended while in use, or left open when unauthorized personnel, residents, or visitors are present.

Users will retrieve computer printouts as soon as they are generated so that EIV data is not left unattended in printers or fax machines where unauthorized users may access them. EIV data will be handled in such a manner that it does not become misplaced or available to unauthorized personnel.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**11-IV.H. USE AND HANDLING OF EIV DATA**

EIV data may be used for:

- Verification of employment and income at certification
- Discrepancy monitoring as described in the EIV Use Policy
- Monitoring of staff compliance with EIV policies

EIV data may be disclosed to:

- The adult resident to whom the data pertains
- Anyone authorized by the resident (in writing) who is assisting with the certification process
- Independent Public Auditors (with signed ROB)
- Service Bureaus (with signed ROB)
- Contract Administrators (monitoring)
- HUD staff (monitoring)
- OIG (investigative purposes)

Use of EIV data is described in Parts 1 through 3 of this EIV Use and Security Policy. The sections in Part 4 of this policy, including those below, are designed to describe the security protocol used to protect EIV data.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**EIV Printouts**

**GHURA Policy**

Reports available through EIV will not be printed to a shared printer unless the EIV User plans to immediately retrieve the data. It is preferred that all EIV printouts are sent to the User's personal printer. EIV printouts will be stored in the resident file in a separate manila envelope. The entire file will be made available to authorized people including appropriate staff or contractors (i.e., Service Bureaus, contractors performing file reviews, etc.) for GHURA, HUD staff, contract administration (CA) staff and the Office of Inspector General (OIG).

Others tasked with reviewing files, such as IPAs hired by GHURA to perform a financial audit, may access EIV reports after signing the ROB.

Note regarding properties with LIHTC, HOME or 515 Rural Development layering: EIV printouts will not be provided to any LIHTC, PJ, or Rural Development auditor, since EIV may not be used to verify information for residents participating in those programs. Alternative verification documents must be used to verify income for these programs.

If a resident requests a copy of their own EIV printout, a copy will be provided. Staff providing the copy will note the printout is a copy provided to the resident upon request. This note will include the following:

This is not an original, this is a copy provided to: \_\_\_\_\_

On \_\_\_\_\_, 20\_\_\_\_\_

By \_\_\_\_\_ (employee name will be printed)

Initials: \_\_\_\_\_

Staff will make a note in the file any time a copy of the EIV data is obtained by authorized persons and taken off-site. This includes copies provided to the applicant/resident, internal staff, HUD, CA staff, or OIG staff. Under no circumstances will the EIV information be provided to anyone other than those noted in this paragraph.

Since site staff may not have access to the EIV database, authorized staff are responsible for providing income verification and discrepancy information to the site. Information must be sent in such a way as to ensure the security of the data. Information will be sent electronically via encrypted email. The email will be opened by authorized staff, the information will be printed, and the email will be immediately deleted from the recipient's email box.

If necessary, printouts will be produced by authorized staff and sent express mail to the site staff. In this case, the recipient will be required to sign for the package to ensure that the information is delivered and that there is no risk of disclosure to unauthorized persons.

Immediately upon receipt, the printouts will be filed and secured as appropriate.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Electronic Information from EIV**

Any time EIV data is stored electronically, it will be properly encrypted and maintained in a restricted access, password-protected folder. Information in the folder will be purged periodically to comply with HUD's EIV file retention policies.

If EIV information is copied to portable media (CD, thumb drive, etc.) that portable media will be destroyed appropriately upon completion of the intended use.

**11-IV.I. REPORTING UNAUTHORIZED DISCLOSURE OR INSPECTION**

Recognition, reporting, and disciplinary action in response to security violations are crucial to successfully maintaining the security and privacy of the EIV system. These security violations may include the disclosure of private data as well as attempts to access unauthorized data and sharing of user IDs and passwords.

**GHURA Policy**

Upon the discovery of a possible unauthorized disclosure of EIV information or other security violation by an employee or any other person, the individual making the observation or receiving the information will contact the EIV Coordinator, who will document all unauthorized disclosures in writing, providing details including who was involved, what was disclosed, how the disclosure occurred, and where and when the unauthorized disclosure occurred. The EIV Coordinator will immediately review the report of unauthorized disclosure, and if appropriate, the EIV Coordinator will remove EIV access. Unauthorized disclosure of any information may be grounds for immediate termination of employment. All employees should carefully review the EIV Access Authorization Form to understand the penalties for unauthorized disclosure of EIV data.

EIV data will be destroyed in a timely manner based on the requirements in the HUD Handbook 4350.3 REV-1, CHG 4; HUD's published EIV training materials; HUD notices; or as prescribed by the PHA's policy and procedures. PHA policies and procedures will not allow data retention that is in conflict with published HUD materials. The only methods for destruction will be burning, shredding, or pulverizing original EIV documents.

EIV documentation will be retained per the requirements of the HUD Handbook 4350.3, REV-1, CHG 4. Master File reports will be retained for three years from date printed and then destroyed as described above. EIV reports in the resident files will be retained for the term of tenancy plus three years, and then destroyed as described above.

I have read and understand the EIV Security Requirements. I agree to abide by this policy and to report any unauthorized disclosure of information.

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Signature

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Date

CC: Property EIV File

## Chapter 12 PROGRAM MANAGEMENT

### INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

**Part I: Project Rental Subsidies.** This part describes how project rental subsidies are applied.

**Part II: Utility Allowance.** This part describes how utility allowances are established and revised.

**Part III: Informal Reviews and Hearings.** This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

**Part IV: Owner or Family Debts to the PHA.** This part describes policies for recovery of monies that GHURA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

**Part V: Record-Keeping.** All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies GHURA will follow.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **PART I: PROJECT RENTAL SUBSIDIES**

Housing subsidies are paid to owners on behalf of tenants to keep the amounts that tenants pay for rent at an affordable cost to the tenants. Project Rental Subsidies received under the Multifamily Housing Program are unlike tenant-based voucher programs such as Section 8 where the subsidy follows the tenant if the tenant moves from the property. Project Rental Subsidies stay with the unit/property.

GHURA uses the Project Rental Subsidies as the basis of its budget. The funds allow GHURA to maintain the property and operate the program in a manner consistent with HUD regulations.

## **PART II: UTILITY ALLOWANCE**

### **12-II.A. OVERVIEW**

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, GHURA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, GHURA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

#### ***Utility Allowances***

##### **GHURA Policy**

\*\*\*Intentionally left blank. GHURA currently pays utilities for Guma Trankilidat under the lease. The lease amendment is currently under review by HUD field office.

#### ***Air Conditioning***

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

##### **GHURA Policy**

GHURA has included an allowance for air-conditioning in its schedule.

#### ***Reasonable Accommodation***

GHURA will approve an allowance for air-conditioning, even if GHURA has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

## **PART III: INFORMAL REVIEWS AND HEARINGS [7 CFR 3560.16]**

### **12-III.A. OVERVIEW**

When GHURA makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.

PHAs are required to include in their administrative plans, informal review procedures for applicants, and informal hearing procedures for participants.

### **12-III.B. INFORMAL REVIEWS**

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement”, and need not be as elaborate as the informal hearing requirements [*Federal Register* 60, no. 127 (3 July 1995):34690].

#### **Decisions Subject to Informal Review**

The PHA must give an applicant the opportunity for an informal review of a decision denying assistance. Denial of assistance may include any or all of the following:

- Denying listing on the Guma Trankilidat waiting list
- Denial of occupancy

Informal reviews are *not* required for the following reasons:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- A determination of the family unit size under the PHA subsidy standards
- Complaints involving discrimination

#### **GHURA Policy**

GHURA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on Guma Trankilidat waiting list; denying or withdrawing a unit offer; refusing to enter into a HAP contract or approve a lease.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Notice to the Applicant**

The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

**GHURA Policy**

As applicable, GHURA'S notice of denial will include information about required or requested remote hearing.

When denying eligibility for admission, the PHA must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Woman Act, and as outlined in Chapter 9. The notice and self-certification form must accompany the written notification of the denial of eligibility determination.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial.

**Scheduling an Informal Review [7 CFR 3560.160]**

**GHURA Policy**

A request for an informal review must be made in writing and delivered to GHURA either in person or by first class mail, by the close of the business day, no later than 10 calendar days from the date of GHURA's denial of assistance.

GHURA must schedule and send written notice of the informal review within 10 calendar days of the family's request.

If GHURA informal hearing will be conducted remotely, at the time the notice is sent to the family, the family will be informed:

Regarding the processes involved in a remote informal hearing.

That GHURA will provide technical assistance prior to and during the informal hearing, if needed; and

That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal review, the family may inform GHURA and GHURA will assist the family in either resolving the issues or allow the family to participate in an in-person informal review, as appropriate.

**Informal Review Procedures**

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of GHURA.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Remote Informal Hearings [Notice PIH 2020-32]**

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal hearings, applicants may still request an in-person informal hearing, as applicable.

**GHURA Policy**

GHURA has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, GHURA will conduct an informal hearing remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person informal hearing would create an undue health risk. GHURA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

**Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

As with in-person informal hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearing must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

If no method of conducting a remote informal hearing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote informal review, and the PHA should consider whether postponing the remote informal hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in-person hearings, Limited English Proficiency (LEP) requirements also apply to remote informal hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal hearings.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Conducting Remote Informal Reviews**

The PHA must ensure that the lack of technology or inability to use technology for remote informal reviews does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal review and, if the family does not have the proper technology to fully participate, either postpone the informal review or provide an alternative means of access.

As with in-person informal reviews, GHURA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal review. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA must ensure the applicant has the right to hear and be heard. All PHA policies and processes for removed informal reviews must be conducted in accordance with due process requirements and be in compliance with HUD regulations at 24 CFR 982.554 and guidance specified in Notice PIH 202032.

**GHURA Policy**

GHURA will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least 5 business days prior to scheduling the remote hearing, GHURA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify GHURA of any known barriers. GHURA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020- 32, including offering the family the opportunity to attend an in-person hearing.

If the informal hearing is to be conducted remotely, GHURA will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled hearing through the mail, via email, or text. GHURA will scan and email copies of these documents to GHURA's representative and to the person conducting the informal hearing the same day.

Documents will be shared electronically whenever possible.

GHURA will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal hearing to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

GHURA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Informal Review Decision**

The PHA must notify the applicant of PHA's final decision, including a brief statement of the reasons for the final decision.

**GHURA Policy**

In rendering a decision, GHURA will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the Notice.

The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

The validity of the evidence. GHURA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, GHURA will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, GHURA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

GHURA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

**Reasonable Accommodation for Person with Disabilities**

Persons with disabilities may request reasonable accommodations to participate in the informal review process and the PHA must consider such accommodations. The PHA must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability.

## **12-III.C. INFORMAL HEARINGS WITH REGARD TO NONCITIZENS**

### **Hearing and Appeal Provisions for Noncitizens [24 CFR 5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

### **Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]**

As discussed in Chapters 3 and 12, the notice of denial or termination of assistance for noncitizens must advise the family of any of the following that apply:

- That financial assistance will be denied or terminated and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]**

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and proof of mailing.

**GHURA Policy**

GHURA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide GHURA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

**GHURA Policy**

GHURA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

***Informal Hearing Officer***

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

***Evidence***

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

**GHURA Policy**

The family will be allowed to copy any documents related to the hearing at no cost to the family. The family must request discovery of GHURA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

***Representation and Interpretive Services***

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. The PHA is obligated to provide a competent interpreter, free of charge, upon request. The family may also or instead provide its own interpreter, at the expense of the family.

**Recording of the Hearing**

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to, provide a transcript of the hearing.

**GHURA Policy**

GHURA will not provide a transcript of an audio taped informal hearing.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

***Hearing Decision***

The PHA must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The notice must state the basis for the decision.

**Retention of Documents [24 CFR 5.514(h)]**

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

**Informal Hearing Procedures for Residents [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in this section below.



## 12-III.D. INFORMAL HEARING FOR RESIDENTS

### Notice to the Family

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, GHURA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to GHURA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

#### **GHURA Policy**

In cases where GHURA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of GHURA.
- A brief statement of the reasons for the decision including the regulatory reference.
- The date the proposed action will take place.
- A statement of the family's right to an explanation of the basis for GHURA's decision.
- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.
- A deadline for the family to request the informal hearing.
- To whom the hearing request should be addressed.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Definitions [24 CFR 966.53; 24 CFR 966.51(a)(2)(i)]**

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – any dispute which a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant’s lease or PHA regulations which adversely affect the individual tenant’s rights, duties, welfare or status
- **Complainant** – any tenant whose grievance is presented to the PHA or at the project management office
- **Due Process Determination** – a determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit
- **Expedited Grievance** – a procedure established by the PHA for any grievance or termination that involves:
  - Any criminal activity that threatens the health, safety, or right to peaceful enjoyment or the PHA’s public housing premises by other residents or employees of the PHA; or
  - Any drug-related criminal activity on or off the premises
- **Elements of Due Process** – an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
  - Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction
  - Right of the tenant to be represented by counsel
  - Opportunity for the tenant to refute the evidence presented by the PHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have
  - A decision on the merits
- **Hearing Officer** – an impartial person or selected by the PHA, other than the person who made or approved the decision under review, or a subordinate of that person. The individual or individuals do not need legal training.
- **Tenant** – the adult person (or persons) (other than a live-in aide)
  - Who resides in the unit, and who executed the lease with the PHA as lessee of the dwelling unit, or, if no such person now resides in the unit,
  - Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit
- **Resident Organization** – includes a resident management corporation

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**12-III.E. APPLICABILITY [24 CFR 966.51]**

Grievances could potentially address most aspects of a PHA's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual tenant issues relating to the PHA. It is not applicable to disputes between tenants not involving the PHA. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of the PHA.

If HUD has issued a due process determination, a PHA may exclude from the PHA grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA;
- Any violent or drug-related criminal activity on or off such premises; or
- Any criminal activity that resulted in felony conviction of a household member

In states without due process determinations, PHAs must grant opportunity for grievance hearings for all lease terminations, regardless of cause, with the following exception: PHAs may use expedited grievance procedures for the excluded categories listed above. These expedited grievance procedures are described in Section 12-III.E. below.

If HUD has issued a due process determination, the PHA may evict through the state/local judicial eviction procedures. In this case, the PHA is not required to provide the opportunity for a hearing under the PHA's grievance procedure as described above.

**GHURA Policy**

GHURA is located in a HUD-declared due process state. Therefore, GHURA will not offer grievance hearings for lease terminations involving criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of GHURA, for violent or drug-related criminal activity on or off the premises, or for any criminal activity that resulted in felony conviction of a household member.

See Chapter 10 for related policies on the content of termination notices.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**12-III.F. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]**

HUD regulations state that any grievance must be personally presented, either orally or in writing, to the PHA office or to the office of the housing development in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

**GHURA Policy**

GHURA will accept requests for an informal settlement of a grievance either orally or in writing (including emailed requests), to GHURA's office within 10 business days of the grievable event. Within 10 business days of receipt of the request GHURA will arrange a meeting with the tenant at a mutually agreeable time and confirm such meeting in writing to the tenant. The informal settlement may be conducted remotely as required by GHURA or may be conducted remotely upon consideration of the request of the tenant. See 14-III.I for information on how and under what circumstances remote informal settlements may be conducted.

If a tenant fails to attend the scheduled meeting without prior notice, GHURA will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

HUD regulations require that a summary of such discussion will be prepared within a reasonable time and one copy will be given to the tenant and one retained in the PHA's tenant file.

The summary must specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

**GHURA Policy**

GHURA will prepare a summary of the informal settlement within 5 business days; one copy to be given to the tenant and one copy to be retained in GHURA's tenant file.

For PHAs who have the option to establish an expedited grievance procedure, and who exercise this option, the informal settlement of grievances is not applicable to those grievances for which the expedited grievance procedure applies.

## 12-III.G. PROCEDURES TO OBTAIN A HEARING

### Requests for Hearing and Failure to Request

#### GHURA Policy

The resident must submit a written request (including emailed requests) for a grievance hearing to GHURA within 10 calendar days of the tenant's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, GHURA's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest GHURA's action in disposing of the complaint in an appropriate judicial proceeding.

### Scheduling of Hearings [24 CFR 966.56(a)]

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer promptly for a time and place reasonably convenient to both the complainant and the PHA. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate PHA official.

#### GHURA Policy

Within 10 business days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and GHURA.

If the GHURA hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

- Regarding the processes involved in a remote grievance hearing;

- That GHURA will provide technical assistance prior to and during the hearing, if needed; and

- That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform GHURA and GHURA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

The PHA may wish to permit the tenant to request to reschedule a hearing for good cause.

#### GHURA Policy

The tenant may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, GHURA may request documentation of the "good cause" prior to rescheduling the hearing.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Pre-Hearing Right to Discovery**

Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing, any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

**GHURA Policy**

The family will be allowed to copy any documents related to the hearing at a cost of \$.50 per page. The family must request discovery of GHURA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

GHURA must be given an opportunity to examine at GHURA offices before the hearing any family documents that are directly relevant to the hearing.

***Participant's Right to Bring Counsel***

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

***Conduct at Hearings***

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA's hearing procedures.

**GHURA Policy**

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **Evidence**

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

### **GHURA Policy**

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

**Oral evidence:** the testimony of witnesses

**Documentary evidence:** a writing which is relevant to the case, for example, a letter written to GHURA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

**Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

**Real evidence:** A tangible item relating directly to the case.

*Hearsay Evidence* is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either GHURA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Expedited Grievance Procedure [24 CFR 966.52(a)]**

The PHA may establish an expedited grievance procedure for any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the PHA;
- Any drug-related criminal activity on or near such premises; or
- Any criminal activity that resulted in felony conviction of a household member.

In such expedited grievances, the informal settlement of grievances as discussed in 12-III.F is not applicable.

The PHA may adopt special procedures concerning expedited hearings, including provisions for expedited notice or scheduling, or provisions for expedited decision on the grievance.

**GHURA Policy**

GHURA will follow expedited grievance procedures for any grievance concerning a termination of tenancy or eviction that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of GHURA, or any drug related criminal activity on or near such premises.

Such procedures will provide for an expedited notice of hearing request, an expedited scheduling of the hearing, and for an expedited decision on the grievance. The tenant will have 3 business days to make their hearing request. The hearing officer will have 3 business days to schedule the hearing, and 3 business days to render a decision. All other aspects of the expedited grievance process shall be the same as for other grievances.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**12-III.H. SELECTION OF HEARING OFFICER**

The grievance hearing must be conducted by an impartial person or persons appointed by the PHA, other than the person who made or approved the PHA action under review, or a subordinate of such person.

**GHURA Policy**

GHURA grievance hearings will be conducted by a single hearing officer and not a panel.

GHURA will appoint a staff member who was not involved in the decision under appeal. If a designated staff member (such as the program manager) was involved in the decision, or is a subordinate of such person, an alternate hearing officer will be selected.

GHURA may select designated staff members who were not involved in the decision under appeal in certain circumstances, such as appeals involving discrimination claims or denials of requests for reasonable accommodations.

GHURA will appoint a person who has been selected in the manner required under the grievance procedure. Efforts will be made to assure that the person selected is not a friend, nor enemy of the complainant and that they do not have a personal stake in the matter under dispute or will otherwise have an appearance of a lack of impartiality.

The Executive Director will designate staff to serve as hearing officers.

***Attendance at the Informal Hearing***

**GHURA Policy**

Hearings may be attended by a hearing officer and the following applicable persons:

A GHURA representative(s) and any witnesses for GHURA

The participant and any witnesses for the participant

The participant's counsel or other representative

Any other person approved by GHURA as a reasonable accommodation for a person with a disability

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### **12-III.I. REMOTE HEARINGS [Notice PIH 2020-32]**

There is no requirement that grievance hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their grievance hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote grievance hearings, applicants may still request an in-person hearing, as applicable.

#### **GHURA Policy**

GHURA has the sole discretion to require that hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, GHURA will conduct a hearing remotely upon request as a reasonable accommodation for a person with a disability, if a tenant does not have child care or transportation that would enable them to attend the hearing, or if the tenant believes an in-person hearing would create an undue health risk. GHURA will consider other reasonable requests for a remote hearing on a case-by-case basis.

### **Discovery of Documents Before the Remote Hearing**

#### **GHURA Policy**

If the hearing will be conducted remotely, GHURA will compile a hearing packet, consisting of all documents GHURA intends to produce at the hearing. GHURA will mail copies of the hearing packet to the tenant, the tenant's representatives, if any, and the hearing officer at least three days before the scheduled remote hearing. The original hearing packet will be in the possession of GHURA's representative and retained by GHURA.

If the hearing is to be conducted remotely, GHURA will require the resident to provide any documents directly relevant to the hearing at least 24 hours before the scheduled hearing through the mail, via email, or text. GHURA will scan and email copies of these documents to the hearing officer and GHURA's representative the same day they are received.

Documents will be shared electronically whenever possible.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

As with in-person grievance hearings, the platform for conducting remote grievance hearings must be accessible to persons with disabilities and the grievance hearings must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote grievance hearings.

If no method of conducting a remote grievance hearing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote grievance hearing, and the PHA should consider whether postponing the remote hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation will depend on the specific circumstances and requirements.

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote grievance hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote grievance hearings.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Conducting Hearings Remotely**

The PHA must ensure that the lack of technology or inability to use technology for remote grievance hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote grievance hearing and, if the family does not have the proper technology to fully participate, either postpone the hearing or provide an alternative means of access.

As with in-person grievance hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote grievance hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA's essential responsibility is to ensure grievance hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote grievance hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations at 24 CFR 966.56 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

**GHURA Policy**

GHURA will conduct remote grievance hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the video conferencing platform at any point, or upon request, the grievance hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote grievance hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least 5 business days prior to scheduling the remote hearing, GHURA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify GHURA of any known barriers. GHURA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020- 32, including offering the family the opportunity to attend an in-person hearing.

GHURA will follow up with a phone call and/or email to the family at least one business day prior to the remote grievance hearing to ensure that the family received all information and is comfortable accessing the video conferencing or call-in platform.

GHURA will ensure that all electronic information stored or transmitted with respect to the grievance hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## 12-III.J. DECISION OF THE HEARING OFFICER

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

### **GHURA Policy**

In rendering a decision, the hearing officer will consider the following matters:

**GHURA Notice to the Family:** The hearing officer will determine if the reasons for GHURA's decision are factually stated in the Notice.

**Discovery:** The hearing officer will determine if GHURA and the family were given the opportunity to examine any relevant documents in accordance with GHURA policy.

**GHURA Evidence to Support GHURA Decision:** The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support GHURA's conclusion.

**Validity of Grounds for Termination of Assistance (when applicable):** The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and GHURA policies. If the grounds for termination are not specified in the regulations or in compliance with GHURA policies, then the decision of GHURA will be overturned.

The hearing officer will issue a written decision to the family and GHURA no later than 10 business days after the hearing. The report will contain the following information:

#### **Hearing information:**

- Name of the participant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of GHURA representative; and
- Name of family representative (if any).

**Background:** A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

**Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as 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. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold GHURA's decision.

**Order:** The hearing report will include a statement of whether GHURA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct GHURA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct GHURA to restore the participant's program status.

### **Procedures for Rehearing or Further Hearing**

#### **GHURA Policy**

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of GHURA will take effect and another hearing will not be granted.

In addition, within 10 business days after the date the hearing officer's report is mailed to GHURA and the participant, GHURA or the participant may request a rehearing or a further hearing. Such request must be made in writing and postmarked or hand-delivered to the hearing officer and to the other party within the 10-business day period. The request must demonstrate cause, supported by specific references to the hearing officer's report, why the request should be granted.

A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of GHURA to grant or deny the request for further hearing or rehearing. A further hearing may be limited to written submissions by the parties, in the manner specified by the hearing officer.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Notice of Final Decision**

The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the PHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

**GHURA Policy**

The Executive Director has the authority to determine that GHURA is not bound by the decision of the hearing officer because GHURA was not required to provide a hearing, the decision exceeded the authority of the hearing officer, the decision conflicted with or contradicted HUD regulations, requirements, or the decision was otherwise contrary to federal, state, or local laws.

GHURA will mail a "Notice of Final Decision" including the hearing officer's report, to the participant and their representative. This Notice will be sent by first-class mail, postage pre-paid with an affidavit of mailing enclosed. The participant will be mailed the original "Notice of Final Decision" and a copy of the proof of mailing. A copy of the "Notice of Final Decision" along with the original proof mailing will be maintained in GHURA's file.

## **PART IV: FAMILY DEBTS TO THE PHA**

### **12-IV.A. OVERVIEW**

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA.

Families are required to reimburse the PHA if they were charged less rent than required because the family either underreported or failed to report income. PHAs are required to determine retroactive rent amounts as far back as the PHA has documentation of family unreported income [Notice PIH 2018-18].

This part describes the PHA's policies for recovery of monies owed to the PHA by families.

#### **GHURA Policy**

When an action or inaction of a resident family results in underpayment of rent or other amounts, GHURA holds the family liable to return any underpayments to GHURA.

GHURA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.



## 12-IV.B. REPAYMENT POLICY

### Family Debts to GHURA

#### **GHURA Policy**

Any amount owed to GHURA by a PBRA tenant must be repaid. If the family is unable to repay the debt within 30 days, GHURA will offer to enter into a repayment agreement in accordance with the policies below.

### Refusal to Enter into An Agreement

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, GHURA will terminate assistance in accordance with the policies in Chapter 10 and pursue other modes of collection.

#### **GHURA Policy**

When a family refuses to repay monies owed to GHURA, in addition to termination of program assistance, GHURA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil lawsuit
- State income tax set-off program

### Repayment Agreement [24 CFR § 792.103]

The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

### General Repayment Agreement Guidelines for Families

#### ***Down Payment Requirement***

#### **GHURA Policy**

Before executing a repayment agreement with a family, GHURA will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to GHURA that a down payment of 10 percent would impose an undue hardship, GHURA may, in its sole discretion, require a lesser percentage or waive the requirement.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

***Payment Thresholds***

Notice PIH 2010-19 recommends that the total amount that a family must pay each month—the family’s monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family’s monthly adjusted income. However, a family may already be paying 40 percent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2010-19 acknowledges that PHAs have the discretion to establish “thresholds and policies” for repayment agreements with families.

**GHURA Policy**

GHURA will work with the family to establish a reasonable timeline and an affordable repayment amount. The PHA may reduce the amount in consultation with the family due to changes in income.

In establishing the repayment agreement, the PHA will consider all relevant information, including the following:

The amount owed by the family to GHURA

The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family’s control

The family’s current and potential income and expenses

The family’s current family share

The family’s history of meeting its financial responsibilities

***Execution of the Agreement***

All repayment agreements must be in writing, dated, and signed by both the family and the PHA [Notice PIH 2018-18].

**GHURA Policy**

Any repayment agreement between GHURA and a family must be signed and dated by GHURA and by the head of household and spouse/co-head (if applicable).

***Due Dates***

**GHURA Policy**

All payments are due by the close of the last business day of the month.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

***Late or Missed Payments***

**GHURA Policy**

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by GHURA, GHURA will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and GHURA will terminate assistance in accordance with the policies in Chapter 10.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement may be considered in default, and GHURA may terminate assistance in accordance with the policies in Chapter 10.

***No Offer of Repayment Agreement***

**GHURA Policy**

GHURA will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

**Repayment Agreements Involving Improper Payments**

Notice PIH 2010-19 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the PHA may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **PART V: RECORD KEEPING**

### **12-V.A. OVERVIEW**

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights, and that comply with VAWA confidentiality requirements.

### **12-V.B. RECORD RETENTION**

The PHA must keep the last three years of the Form HUD-50059 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].

The PHA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three years from the EOP date [Notice PIH 2018-18].

Notice PIH 2014-20 requires the PHA to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

The PHA must keep confidential records of all emergency transfer requested under the PHA's Emergency Transfer Plan, and the outcomes of such requests, and retain the records for a period of three years, or for a period of time as specific in program regulations [24 CFR 5.2002(e)(12)].

#### **GHURA Policy**

GHURA will keep the last three years of the Form HUD-50059 and supporting documentation, and for at least three years after end of participation all documents related to a family's eligibility, tenancy, and termination.

GHURA will keep Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy and for three years from the end of participation date.

In addition, GHURA will keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;

- An application from each ineligible family and notice that the applicant is not eligible;

- HUD-required reports;

- Unit inspection reports;

- Accounts and other records supporting GHURA budget and financial statements for the program;

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

Complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act, the equal final rule, or VAWA;

Confidential records of all emergency transfers related to VAWA requested under the PHA's Emergency Transfer Plan and the outcomes of such requests

Other records specified as required by HUD

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents.

## **12-V.C. RECORDS MANAGEMENT**

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

### **GHURA Policy**

All applicant and participant information will be kept in a secure location and access will be limited to authorized GHURA staff.

GHURA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

### **Privacy Act Requirements [FR-7092-N-40 and Form-9887]**

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9887, Notice and Consent to the Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

### **Upfront Income Verification (UIV) Records**

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data*.

### **GHURA Policy**

Prior to utilizing HUD's EIV system, GHURA will adopt and implement EIV security procedures required by HUD.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### **Criminal Records**

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.9.03(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

#### **GHURA Policy**

Consistent with the limitations on disclosure of records, GHURA will ensure that any criminal record received by GHURA from a law enforcement agency and any records received with respect to sex offender registration from a State or local agency is:

- Maintained confidentially;
- Not misused or improperly disseminated; and
- Destroyed once the purpose(s) for which the record was requested has been accomplished, including expiration of the period for filing a challenge to a GHURA action without institution of a challenge or final disposition of any such litigation.

The signed criminal background certification will remain with the file. Any criminal record attached to the background certification will be destroyed, as noted above.

### **Medical/Disability Records**

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

### **Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking Records**

For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking, see Chapter 9.

## Chapter 13 REQUIRED Form HUD 50059, HUD-50059-A, AND SUBSIDY DATA REPORTING

### INTRODUCTION

This chapter discusses the requirements for transmitting subsidy-related data to the Tenant Rental Assistance Certification System (TRACS). The data includes tenant data, requests for payment of housing assistance, utility reimbursements (if applicable), and any other special claims:

**Part I: Tenant Rental Assistance Certification System (TRACS).** This part describes GHURA's policies for subsidy tracking.

**Part II: Payments.** This part describes key payments that HUD provides to GHURA and the requirements for these payments.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **PART I: TENANT RENTAL ASSISTANCE CERTIFICATION SYSTEM (TRACS)**

### **13-I.A. KEY REGULATIONS**

- 24 CFR Part 208, Electronic Transmission of Required Data for Certification and Subsidy Billing Procedures for Multifamily Subsidized Projects

### **13-I.B. INTRODUCTION TO TRACS**

TRACS was developed to help improve financial controls over assisted housing programs. TRACS collects certified tenant data and subsidy payment vouchers from owners and management agents of multifamily housing projects. HUD Field Offices maintain data on subsidy contracts and contract funding.

#### A. Source Data [HUD Occupancy Handbook 4350.3]

1. HUD-50059-A, Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures;
2. HUD-50059-A, Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures – Partial Certification;
3. Form HUD-52670, Housing Owner's Certification and Application for Housing Assistance Payments;
4. Form HUD-52670-A part 1, Schedule of Tenant Payments Due;
5. Form HUD-52670-A part 2, Special Claims Schedule;
6. Form HUD-52670-A part 3, Adjustments to Schedule of Tenant Assistance Payments Due
7. Form HUD-52670- part 4, Misc. Accounting Request for Schedule of Tenant Assistance Payments Due
8. Form HUD-52670-A part 5, Approved Special Claims for Schedule of Tenant Assistance Payments Due;
9. Form HUD-52671-A through D, Special Claims Worksheets; and
10. Assistance payments contracts, assistance payments renewal contracts, and contract rent increases, including contract Exhibit A, Identification of Unit and Contract Rents, of the assistance payments contracts.

#### B. TRACS Databases [HUD Occupancy Handbook 4350.3]

1. All tenant data collected and stored in TRACS undergo edits for accuracy and compliance with eligibility rules and rent calculation rules before they are stored in the TRACS Tenant Database.
2. TRACS stores payment history on all project-based subsidy contracts for which HUD makes monthly assistance payments.
3. Much of the tenant, contract, funding, and voucher data stored in the TRACS databases is available to authorized users for on-line viewing/updating. Report and data retrieval capabilities are also available.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### **13-I.C. OWNER SUBMISSION REQUIREMENTS**

A. Electronic Data Processing and Transmission [HUD Occupancy Handbook 4350.3]

1. Owners of all properties covered by the HUD Occupancy Handbook 4350.3 are responsible for processing tenant certifications, recertifications, and subsidy billings.

**GHURA Policy**

GHURA will submit to HUD monthly tenant certifications, recertifications, and subsidy billings using its WinTen/Transend software.

2. TRACS-compliant software used to produce certifications and subsidy billings must be obtained from a vendor who certifies that the software is compliant with HUD requirements.

**GHURA Policy**

GHURA uses a TRACS-compliant software for certifications and subsidy billing, WinTen/Transend software.

3. Owners are responsible for the electronic submission of the following HUD forms:
  - a. HUD-50059, Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures and HUD-50059A, Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent procedures – Partial Certification
  - b. Form HUD-52670, Housing Owner's Certification and Application for Housing Assistance Payments.

**GHURA Policy**

GHURA uses a TRACS-compliant software for certifications and subsidy billing - WinTen/Transend software.

4. Owners may obtain TRACS-compliant software and process their certifications and subsidy billings directly. Alternatively, owners may make arrangements to submit data to service providers who will use TRACS-compliant software to complete recertifications and billing submissions, and transmit them to HUD or the Contract Administrator on the owner's behalf.
5. Service providers are organizations that provide electronic data transmission functions for owners.
6. Below is the deadline for TRACS submissions.
  - a. Section 8, PAC, and PRAC Properties. The deadline for transmission of vouchers (form HUD-52670) and all related TRACS files supporting the voucher is the 10<sup>th</sup> calendar day of the month directly preceding the voucher payment month.
  - b. RAP and Rent Supplement Properties. The deadline for transmission of vouchers (form HUD-52670) and all related TRACS file supporting the voucher is the 10<sup>th</sup> calendar day of the voucher payment month.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

Vouchers submitted after this deadline date may risk late payment.

B. Internet Applications [HUD Occupancy Handbook 4350.3]

TRACS internet applications provide authorized users with the capability to access summary and status information on submission to the TRACS databases.

C. Funding the Costs of Implementing TRACS [HUD Occupancy Handbook 4350.3]

HUD considers the costs of the electronic submission to be eligible property-operating costs payable from property income. These costs are also considered property-operating costs for the purpose of processing requests for HUD approval of a rent increase. Eligible costs include the purchase and maintenance of hardware and/or software, the cost of contracting for those services, the cost of centralizing the electronic transmission function, and the cost of internet access.

### **13-I.D. DATA COLLECTION AND PROCESSING PROCEDURES**

The Monthly Activity Transmission (MAT) is a front-end subsystem of TRACS. It accepts data transmitted from the sites to HUD Headquarters in an electronic form and returns messages from HUD Headquarters to the sender sites. MAT returns a file to the sender if there are errors. Owners are responsible for correcting the errors promptly.

### **13-I.E. RECORD KEEPING REQUIREMENTS FOR HUD-50059, HUD-50059-A, AND VOUCHERS [HUD Occupancy Handbook 4350.3]**

Owners must keep the signed HUD-50059(s) and copies of the HUD-50059-A(s) for tenant from the time of move-in to move-out and for a minimum of three years thereafter. Owners may move older records off-site when files get large, however, upon request, the files must be made available for review by HUD or the Contract Administrator.

Owners must keep a signed paper copy of the subsidy vouchers for at least five years after HUD or the Contract Administrator action.

Owners must dispose of all files and records in a manner that will prevent any unauthorized access to personal information.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**13-I.F. HUD-50059 and HUD-50059-A**

Owners must fully complete the owner and tenant data requirements for the following:

1. Move-ins
2. Initial certifications
3. Annual recertifications
4. Interim recertifications
5. When converting a Rent Supplement or RAP tenant to Section 8
6. When a HUD-owned project is sold and a tenant begins to receive Section 8 as a result of the sale
7. When correcting a previous full submission
8. When there is a change in the person who is head of household.

Owners must complete the form HUD 50059-A for the following:

1. Move-out
2. Termination of assistance
3. Unit transfer
4. Gross rent change.

**13-I.G. RESOURCES**

<http://www.hud.gov/offices/hsg/mfh/trx/trxsum.cfm>.

Integrated Multifamily Access eXchange (iMAX)  
User Guide Monthly Activity Transmission (MAT)  
User Guide Multifamily Help Desk

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **PART II: PAYMENTS**

This section describes the requirements and procedures that owners must follow to receive assistance payments from HUD for the property. It explains when owners may bill HUD for special claims: tenant damages, unpaid tenant rent, vacancy losses, and debt service. This section also explains the procedures for handling utility reimbursements.

### **13-II.A. KEY REGULATIONS AND STATUTES**

- 24 CFR §§ 880.601, 883.701, 884.118, 886.119 (Responsibilities of the owner)
- 18 U.S.C. § 1001 (Criminal prohibitions and penalties)
- 31 U.S.C. § 3729 (Civil prohibitions and penalties)

### **13-II.B. ASSISTANCE PAYMENTS**

#### **KEY REQUIREMENTS**

1. To obtain assistance payments, the owner must submit a monthly subsidy billing to HUD. The submission is required even when the owner is not requesting any assistance for the billing month.
2. A paper copy of form HUD-52670, Housing Owner's Certification and Application for Housing Assistance Payments, generated by the owner's TRACS software, bearing an original signature and consistent with the corresponding electronic transmission, must be kept on file by the owner for each monthly subsidy period that the owner receives assistance.
3. A HUD-50059 effective in the voucher month, with the original signature of the head, spouse, co-head, and all adult family members.
4. The owner's application for assistance payments must be limited to the number and type of units under contract as of the given subsidy month according to the identification of contract units and rents in the project-based payments contract.
5. The owner must comply with the assistance contract in order to continue receiving assistance payments from HUD.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### 13-II.C. UTILITY REIMBURSEMENTS

\*\*\*Lease currently under review with HUD Field Office

HUD has established a means to ensure that tenants can pay their utility bills as part of the assistance payment tenant may receive either as a utility allowance or utility reimbursement

### 13-II.D. SPECIAL CLAIMS

Special claims for vacancy loss during rent-up are compensation to property owners for rental loss attributed to vacant units during the initial rent-up period of a property.

NOTE: Although vacancy loss during rent-up is permissible under the project-based Section 8 regulations, Section 8 and Section 202/8 projects are no longer eligible because the authority has been repealed and all of the projects have passed the rent-up stage. Therefore, no vacancy loss during rent-up should be submitted for project-based Section 8 and Section 202/8.

## Chapter 14 PROGRAM INTEGRITY

### INTRODUCTION

The PHA is committed to ensuring that subsidy funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate, and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

**Part I: Preventing, Detecting, and Investigating Errors and Program Abuse.** This part presents PHA policies related to preventing, detecting, and investigating errors and program abuse.

**Part II: Corrective Measures and Penalties.** This part describes the corrective measures PHA must and may take when errors or program abuses are found.

## **PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE**

### **14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE**

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and program abuse. PHAs are required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

- Provide applicants and participants with form HUD-52675, “Debts Owed to PHAs and Terminations”.
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file.

#### **GHURA Policy**

GHURA anticipates that the vast majority of families, owners, and GHURA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that GHURA’s Multifamily Housing Program is administered effectively and according to the highest ethical and legal standards, GHURA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

GHURA will discuss program compliance and integrity issues during the new tenant briefing sessions described in Chapter 6.

GHURA will provide each applicant and participant with a copy of “Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

GHURA will provide each applicant and participant with a copy of “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19. In addition, GHURA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

GHURA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key GHURA forms and form letters that request information from a family or owner.

GHURA staff will be required to review and explain the contents of all HUD and GHURA required forms prior to requesting family member signatures.

GHURA will provide each GHURA employee with the necessary training on program rules and the organization’s standards of conduct and ethics.

## Guam Elderly Housing (Guma Trankilidat) Tenant Selection Plan

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

### **14-I.B. DETECTING ERRORS AND PROGRAM ABUSE**

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

#### **Quality Control and Analysis of Data**

##### **GHURA Policy**

GHURA routinely will use available sources of up-front income verification, including HUD's EIV system, to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

GHURA will compare family-reported income and expenditures to detect possible unreported income.

#### **Independent Audits and HUD Monitoring**

OMB Circular A-133 requires all PHAs that expend \$500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

##### **GHURA Policy**

GHURA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of GHURA's error detection and abuse prevention efforts.

#### **Individual Reporting of Possible Errors and Program Abuse**

##### **GHURA Policy**

GHURA will encourage staff, program participants, and the public to report possible program abuse.



## 14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

### When GHURA Will Investigate

#### **GHURA Policy**

GHURA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for GHURA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

GHURA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

### Consent to Release of Information

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require tenant families to give consent to the release of additional information.

### Analysis and Findings

#### **GHURA Policy**

GHURA will base its evaluation on a preponderance of the evidence collected during its investigation.

*Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole, shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation GHURA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed GHURA, and (3) what corrective measures or penalties will be assessed.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

### **Consideration of Remedies**

All errors and instances of program abuse must be corrected prospectively. Whether GHURA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

#### **GHURA Policy**

In the case of family-caused errors or program abuse, GHURA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

### **Notice and Appeals**

#### **GHURA Policy**

GHURA will inform the relevant party in writing of its findings and remedies within 15 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which GHURA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable.

## **PART II: CORRECTIVE MEASURES AND PENALTIES**

### **14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS**

A subsidy under- or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

#### **Corrections**

Whether the incorrect rental determination is an overpayment or underpayment, the PHA must promptly correct the tenant rent and any utility reimbursement prospectively.

#### **GHURA Policy**

Increases in the tenant rent will be implemented on the first of the month following a written 30-day notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

#### **Reimbursement**

Whether the family or owner is required to reimburse GHURA or GHURA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

### **14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE**

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

#### **Family Reimbursement to PHA**

#### **GHURA Policy**

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. GHURA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 8. If the family fails to repay the excess subsidy, GHURA will terminate the family's assistance in accordance with the policies in Chapter 10.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**PHA Reimbursement to Family**

**GHURA Policy**

GHURA will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

**Prohibited Actions**

An applicant or participant in the Multifamily Housing program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. § Section 1001].
- Provide incomplete or false information to the PHA.
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

**GHURA Policy**

Any of the following will be considered evidence of family program abuse:

Offering bribes or illegal gratuities to GHURA Board of Commissioners, employees, contractors, or other GHURA representatives.

Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to GHURA on the family's behalf.

Use of a false name or the use of falsified, forged, or altered documents.

Intentional misreporting of family information or circumstances (e.g. income or family composition).

Omitted facts that were obviously known by a family member (e.g., not reporting employment income).

Admission of program abuse by an adult family member

GHURA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Penalties for Program Abuse**

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay excess amounts owed to the program
- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 8 (for participants).
- GHURA may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 8 respectively.
- GHURA may require the family to attend a conference, tenancy counseling or other corrective education.
- GHURA may refer the family for local or federal criminal prosecution as described in section 14-II.D.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

#### **14-II.D. PHA-CAUSED ERRORS OR PROGRAM ABUSE**

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the PBRA program. Additional standards of conduct may be provided in the GHURA personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply PBRA housing program rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

##### **De Minimis Errors [24 CFR 5.609(c) (4); Notice H 2023-10]**

PHAs will not be considered out of compliance solely due to de minimis errors in calculating family income. De minimis errors occur when an PHA's 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). PHAs will not be issued a finding by HUD or the Contract Administrator for de minimis errors in income calculation. As PHAs become aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made, regardless of the dollar amount associated with the error. PHAs must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs must state in the TSP how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

##### **GHURA Policy**

GHURA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error or staff program abuse, or a de minimis error.

##### **Repayment to GHURA**

A family participant is not required to repay an overpayment of subsidy if the error or program abuse is caused by a PHA staff.

##### **PHA Reimbursement to Family**

PHAs must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse.

##### **Prohibited Activities**

##### **GHURA Policy**

Any of the following will be considered evidence of program abuse by GHURA staff:

- Failing to comply with any PBRA housing program requirements for personal gain.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

- Failing to comply with any PBRA housing program requirements as a result of a conflict-of-interest relationship with any applicant or participant.
- Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to GHURA.
- Using a position of authority to demand sexual favors or assault, abuse or intimidate applicants, participating families, vendors, contractors, or other persons who provide services or materials to GHURA.
- Disclosing confidential or proprietary information to outside parties.
- Gaining profit as a result of insider knowledge of GHURA activities, policies, or practices.
- Misappropriating or misusing PBRA housing program funds.
- Destroying, concealing, removing, or inappropriately using any records related to the PBRA housing program.
- Committing any other corrupt or criminal act in connection with any federal housing program.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## **14-II.E. CRIMINAL PROSECUTION**

### **GHURA Policy**

When GHURA determines that program abuse by a family or GHURA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, GHURA will refer the matter to the appropriate entity for prosecution. When the amount of underpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the PBRA housing program will be referred to the appropriate federal or local entity.

## **14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES**

PHAs may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order, or a repayment agreement.

The PHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the PHA to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that PHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in.

If HUD incurs costs on behalf of the PHA related to the collection, these costs must be deducted from the amount retained by the PHA.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

## ACRONYMS

<b>AAF</b>	Annual adjustment factor (published by the U.S. Department of Housing and Urban Development (HUD) in the Federal Register and used to compute annual rent adjustments)
<b>ACC</b>	Annual Contributions Contract
<b>ADA</b>	American with Disabilities Act of 1990
<b>BR</b>	Bedroom
<b>CDBG</b>	Community Development Block Grant
<b>CFR</b>	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
<b>COFA</b>	Compact of Free Association (re: Compact Agreement between the United States and the Freely Associated States of Agreement).
<b>CPI</b>	Consumer Price Index (published monthly by the Department of Labor as an inflation indicator)
<b>EID</b>	Earned Income Disregard
<b>EIN</b>	Employer Identification Number
<b>ELI</b>	Extremely Low-Income
<b>EIV</b>	Enterprise Income Verification
<b>FAS</b>	Freely Associated States
<b>FDIC</b>	Federal Deposit Insurance Corporation
<b>FHA</b>	Federal Housing Administration
<b>FICA</b>	Federal Insurance Contributions Act (established Social Security Taxes)
<b>FMR</b>	Fair Market Rent
<b>FR</b>	Federal Register

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

<b>FY</b>	Fiscal year
<b>FYE</b>	Fiscal year end
<b>GAO</b>	Government Accountability Office
<b>HAP</b>	Housing Assistance Payment
<b>HUD</b>	U.S. Department of Housing and Urban Development
<b>HUDCLIPS</b>	HUD Client Information and Policy System
<b>IG</b>	(HUD Office of) Inspector General
<b>INS</b>	U.S. Immigration and Naturalization Service
<b>IPA</b>	Independent Public Auditor
<b>IRA</b>	Individual Retirement Account
<b>IRS</b>	Internal Revenue Service
<b>JTPA</b>	Job Training Partnership Act
<b>LBP</b>	Lead-based paint
<b>MINC</b>	Management Interactive Network Connection
<b>MS</b>	Mainstream Housing Program
<b>MSA</b>	Metropolitan Statistical Area (established by the U.S. Census Bureau)
<b>MTCS</b>	Multi-family Tenant Characteristic System (Form HUD-50058 sub-module of the PIC system)
<b>NOFA</b>	Notice of funding Availability
<b>OMB</b>	U.S. Office of Management and Budget
<b>PBV</b>	Project-based Voucher
<b>PHA</b>	Public Housing Agency

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

<b>PHRA</b>	Public Housing Reform Act of 1998 (also known as Quality Housing and Work Responsibility Act)
<b>PIC</b>	(Public and Indian Housing) Information Center
<b>PS</b>	Payment Standard
<b>QHWRA</b>	Quality Housing and Work Responsibility Act of 1998
<b>RD</b>	Rural Development
<b>REAC</b>	Real Estate Assessment Center (U.S. DHUD)
<b>RFP</b>	Request for Proposal
<b>RIGI</b>	Regional Inspector General for investigation (handles fraud and program abuse matters for HUD at the regional office level)
<b>SRO</b>	Single room occupancy
<b>SSA</b>	Social Security Administration
<b>SSI</b>	Supplemental Security Income
<b>SSN</b>	Social Security Number
<b>TANF</b>	Temporary Assistance for Needy Families
<b>TR</b>	Tenant Rent
<b>TRACS</b>	Tenant Rental Assistance Certification System
<b>TTP</b>	Total Tenant Payment
<b>QC</b>	Quality Control
<b>UA</b>	Utility Allowance
<b>UIV</b>	Up-front Income Verification
<b>UPCS</b>	Uniform Physical Conditions Standard

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

<b>URP</b>	Utility Reimbursement Payment
<b>USDA</b>	U.S. Department of Agriculture
<b>VA</b>	Veteran Affairs
<b>VASH</b>	Veteran Affairs Supportive Housing
<b>VAWA</b>	Violence Against Women Re-Authorization Act of 2005
<b>WIA</b>	Workforce Investment Act

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## GLOSSARY

**Absorption:** In portability (under subpart H of 24 CFR 982) – the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

**Accessible:** The facility or portion of the facility can be approached, entered and used by individuals with physical disability.

**Adjusted Income:** The family’s annual or monthly income, less allowable HUD deductions.

**Adjusted Annual Income:** The family’s annual income, less allowable HUD deductions.

**Administrative fee:** Fee paid by HUD to the PHA for administration of the program.

**Administrative fee reserves (formerly “operating reserves”):** The account established by a PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. (See 24 CFR 982.155. Administrative fee reserves from FY 2004 to 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

**Administrative plan:** The plan that describes PHA policies for administration of the project-based programs. The Administrative Plan and any revision must be approved the PHA’s board and included as a supporting document to the PHA Plan.

**Admission:** The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

**Amortization payment:** In a manufactured home space rental, it is the monthly debt service payment by the family to amortize the purchase price of the manufactured home.

**Annual Contribution Contract (ACC):** The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

**Annual income:** The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulation.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Applicant (applicant family):** A family that has applied for admission to a program but is not yet a participant in the program.

**Area Exception Rent:** An amount that exceeds the published FMR. See 24 CFR 982.504(b).

**“As paid” States:** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

**Assets:** Anything tangible or intangible that represent ownership of value that can be converted into cash (although cash itself is also considered an asset).

**Auxiliary Aids:** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance.

**Budget Authority:** An amount authorized and appropriated by Congress for payment to HAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

**Child:** A member of the family other than the family head or spouse who is under 18 years of age.

**Child care expenses:** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

**Citizen:** A citizen or national of the United States.

**Co-head:** An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

**Common space:** In shared housing, it is the space available for use by the assisted family and other occupants of the unit.

**Computer match:** The automated comparison of data bases containing records about individuals.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Confirmatory review:** An on-site review performed by HUD to verify the management performance of a PHA.

**Consent form:** Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

**Continuously assisted:** An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under the 1937 Housing Act program when the family is admitted to the voucher program.

**Contract:** An agreement between two or more parties, one that is written and enforceable by law.

**Contract authority:** The maximum annual payment by HUD to a PHA for funding increment.

**Cooperative:** Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see 24 CFR 982.619.

**Covered families:** A statutory term for families who are required to participate in a welfare agency's economic self-sufficiency program, and who may be subjected to a welfare benefit sanction for noncompliance with this obligation. This includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

**Dating violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on consideration of the following factors:

- The length of the relationship;
- The type of relationship;
- The frequency of interaction between the persons involved in the relationship.

**Dependent:** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

***Disability assistance expenses:*** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

***Disabled family:*** A family whose 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.

***Displaced family:*** A family in which each member, or whose sole member is a person displaced by government action, or a person whose dwelling has been extensively damaged or destroyed as a result of disaster declared or otherwise formally recognized pursuant to Federal Disaster relief laws.

***Domestic violence:*** Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction.

***Domicile:*** The legal residence of the household head or spouse as determined in accordance with State and local laws.

Drug-related criminal activity:

***Drug-trafficking:*** The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, or a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

***Economic self-sufficiency program:*** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. It can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607 (d)); 24 CFR 982.5.603 (c).

***Elderly family:*** A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

***Elderly person:*** An individual who is at least 62 years of age.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Eligible family:** A family that is income eligible and meets the other requirements of the Act and Part 5 of 24 CFR.

**Employer Identification Number (EIN):** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

**Evidence of citizenship or eligible status:** The documents which must be submitted to evidence citizenship or eligible immigration status (see 24 CFR 5.508 (b)).

**Extremely low income family:** A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustment for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of the median income if HUD finds such variations are necessary due to unusually high or low family incomes (24 CFR 5.603).

**Facility:** All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.

**Fair Housing Act:** Refers to Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

**Fair Market Rent (FMR):** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market areas to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See period publications in the Federal Register in accordance with 24 CFR Part 888.

**Family:** Includes but is not limited to the following, and can be further defined in the PHA policy:

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size);
- An elderly family or a near-elderly family;
- A displaced family;
- The remaining member of a tenant family;
- A single person who is not an elderly or displaced person, or a person with disabilities or the remaining member of a tenant family.

**Family Rent to owner:** In the voucher program, the portion of rent to owner paid by the family.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Family Self-sufficiency Program (FSS):** The program established by the PHA in accordance with 24 CFR Part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

**Family share:** The portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR 982.515 (a).

**Family unit size:** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

**Federal Agency:** A department of the Executive branch of the Federal Government.

**Foster Child Care Payment:** Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

**Full-time Student:** A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended; 24 CFR 5.603).

**Funding increment:** Each commitment of budget authority by HUD to a PHA under the consolidated Annual Contributions Contract for the PHA Program.

**Gross rent:** The sum of the rent to owner plus any utility allowance.

**Group home:** A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type – see 24 CFR 982.610 to 982.614.

**Handicap:** Any condition or characteristic that renders a person an individual with handicaps.

**HAP Contract:** Housing assistance payments contract. A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

**Head of Household:** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Housing assistance payment (HAP):** The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Housing Agency (HA):** A state, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. (“PHA” and “HA” mean the same thing).

**Housing Quality Standards (HQS):** The HUD minimum quality standards for housing assisted under the voucher program.

**HUD:** The U.S. Department of Housing and Urban Development.

**Immediate family member:** A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or any other person living in the household of that person and related to that person by blood and marriage.

**Imputed Asset:** Asset disposed of for less than fair market value during two years preceding examination or re-examination.

**Imputed Income:** HUD passbook rate multiplied by the total cash value of assets. Calculation used when net family assets exceed \$5,000.

**Imputed welfare income:** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family’s annual income and therefore reflected in the family’ rental contribution.

**Income:** Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

**Income Information:** means information relating to an individual’s income, including:

- All employment income information known to current or previous employers or other income sources.
- All information about wages, as defined in the state’s unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and when known, Employer Identification Number of an employer reporting wages under a State unemployment compensation law.
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount the period received.
- Unearned IRS income and self-employment, wages and retirement income.
- Wages, social security, and supplemental security income data obtained from the Social Security Administration.

**Individual with Disabilities or Handicap:** Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Initial PHA:** A portability term which (1) a PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) a PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

**Initial payment standard:** The payment standard at the beginning of the HAP contract term.

**Initial rent to owner:** The rent to owner at the beginning of the HAP contract term.

**Jurisdiction:** The area in which the PHA has authority under State and local law to administer the program.

**Landlord:** Either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

**Lease:** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

**Live-in Aide:** A person who resides with one or more elderly persons, or near-elderly person, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the person or persons;
- Is not obligated for the support of the person or persons; and
- Would not be living in the unit except to provide the necessary supportive services.

**Local Preference:** A preference used by the PHA to select among applicant families.

**Low Income Family:** A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for area with unusually high or low incomes.

**Medical expenses:** Medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance, (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

**Minor:** A member of the family household other than the family head or spouse, who is under 18 years of age.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Mixed family:** A mix family refers to household whose members include those with U.S. citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Monthly adjusted income:** Monthly adjusted income refers to the family's annual adjusted income divided by 12 (months).

**Monthly income:** The family's gross annual income divided by 12 (months).

**National:** A person who owes permanent allegiance to the United States, for example, as a result of birth in a U.S. territory or possession.

**Near elderly family:** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

**Net family assets:** Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust family will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under 24 CFR 5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or re-examination, as applicable, in excess of the consideration received therefore. In case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measureable in dollar terms.

**Noncitizen:** A person who is neither a citizen nor a national of the United States.

**Notice of funding availability (NOFA):** For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

**Office of General Counsel (OGC):** The General Counsel of HUD.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Owner:** Any person or entity with the legal right to lease or sublease a unit to a participant.

**PHA Plan:** The Annual Plan and the 5-year plan as adopted by the PHA and approved by HUD.

**PHA's quality Control Sample:** An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA Supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see 24 CFR 985.3.

**Participant:** A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

**Payment standard:** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

**Persons with Disability:** A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be a long-continued and indefinite duration substantially impedes the ability to live independently, and as is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes).

**Portability:** Renting a dwelling unit with Section 8 housing choice voucher outside of the jurisdiction of the initial PHA.

**Premises:** The building or complex in which the dwelling unit is located, including common areas and grounds.

**Private Space:** In shared housing, this refers to the portion of a contract unit that is for the exclusive use of an assisted family.

**Processing entity:** This refers to the person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income re-examination. In the Section 8 program, the "processing entity is the "responsible entity".

**Project owner:** The person or entity that owns the housing project containing the assisted dwelling unit.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Public Assistance:** Welfare or other payments to families or individuals based on need, which are made under programs funded separately or jointly by Federal, state, or local governments.

**Public Housing Agency (PHA):** Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of entities that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

**Reasonable rent:** A rent to owner that is not more than rent charged for (1) for comparable units in the private unassisted market; and (2) for comparable unassisted units in the premises.

**Receiving PHA:** In portability, this refers to a PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

**Recertification (Also Re-examination):** The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

**Remaining Member of Tenant Family:** Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies leaving widow age 47 who is not disabled).

**Rent to owner:** The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

**Residency Preference:** A PHA preference for admission of families that reside anywhere in a specific area, including families with a member who works or has been hired to work in the area ('residency preference area').

**Responsible entity:** For the public housing and the Section 8 tenant-based assistance, project-based certificate assistance and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

**Secretary:** Refers to the Secretary of Housing and Urban Development (HUD).

**Section 8:** Refers to Section 8 of the U.S. Housing Act of 1937.

**Section 8 covered programs:** All HUD programs which assist housing under Section 8 of the 1937 Act including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Section 214:** Section 214 of the Housing and Community Development Act of 1980, as amended.

**Section 214 covered programs:** The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 5.500.

**Security Deposit:** A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

**Set-up charges:** In a manufactured home space rental, this refers to the charges payable by the family for assembling, skirting and anchoring the manufactured home.

**Shared housing:** When a unit is occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. See Special housing types under 24 CFR 982.615 to 982.618.

**Single person:** A person living alone or intending to live alone.

**Single room occupancy housing (SRO):** A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. See special housing types under 24 CFR 982.602 to 982.605.

**Social Security Number (SSN):** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

**Special admission:** Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

**Special housing types:** See subpart M of 24 CFR 982. Subpart M states the special regulatory requirements for SRO housing, congregate housing, group homes, shared housing, cooperative (including mutual housing), and manufactured homes (including manufactured home space rental).

**Specified Welfare Benefit Reduction:** Those referred to reductions of welfare benefits (for covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

**Spouse:** The marriage partner of the head of household.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Stalking:** To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass or intimidate another person; and in the course of; or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

**State Wage Information Collection Agency (SWICA):** The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

**Subsidy standards:** Standards established by the PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Suspension:** Stopping the clock on the term of a family's voucher after the family submits a request for approval of tenancy. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extensions or suspension. This practice is also called "tolling".

**Tenancy Addendum:** Under the Housing Choice Voucher Program, this refers to the lease language required by HUD in the lease between the tenant and the landlord (owner).

**Tenant:** The person or persons (other than a live-in aide) who executes the lease as lease of the dwelling unit.

**Tenant rent to owner:** The tenant's share of the total rent paid to the owner.

**Term of Lease:** The amount of time a tenant agrees in writing to live in a dwelling unit.

**Total Tenant Payment (TTP):** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

**Unit:** Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

**Utility allowance:** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

**Utility Reimbursement:** In the HCV program, this refers to the portion of the housing assistance payment which exceeds the amount of rent to owner.

**Utility hook-up charge:** In a manufactured home space rental, this refers to the costs payable by the family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

**Vacancy Loss Payment (*Applies only to pre 10/2/95 HAP contracts in the Rental Certificate Program*):** When a family vacates its unit in violation of its lease, the owner is eligible for 80 percent of the contract rent for a vacancy period of up to one additional month (beyond the month in which the vacancy occurred) if he or she notifies the PHA as soon as he or she learns of the vacancy, makes an effort to advertise the unit and does not reject any eligible applicant except for good cause.

**Very Low-Income Family:** A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the HCV program.

**Violent criminal activity:** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

**Voucher (HCV program):** A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

**Voucher holder:** A family holding a voucher with an unexpired term (search time).

**Voucher program:** The Section 8 Housing Choice Voucher Program.

**Waiting list admission:** An admission into the Section 8 HCV Program from the PHA waiting list.

**Welfare assistance:** Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care, or to the services for working families. FOR THE FSS PROGRAM (24 CFR 984.103 (b)), “welfare assistance” includes only cash maintenance payments from Federal or State programs designed

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

*Welfare-to-work (WTW) family:* A family assisted by a PHA with voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).

DRAFT

**Instructions for form  
HUD-50059 (09/2009)**

**Owner's Certification of Compliance with HUD's  
Tenant Eligibility and Rent Procedures**

**Some general references in HUD Handbook 4350.3 REV-1 to consider when completing the applicable Items on the form HUD-50059 are:**

**Glossary  
Appendix 3  
Chapter 5, Section 3**

**NOTE:** To process a Move-out (MAT40 TRACS record), Termination (MAT65 TRACS record), Gross Rent (MAT70 TRACS record), or Unit Transfer (MAT70 TRACS record), complete the form **HUD-50059-A** instead of this form.

**Section B Summary Information:**

**Item 1 Project Name** Enter the project name that appears on the regulatory agreement or subsidy contract. This will be the current project name in the Contracts database.

(MAT TENHR Field 20)

Note: TRACS will use this project name for all Items under this TENHR.

**Item 2 Subsidy Type** Enter the code for the subsidy the tenant will receive during the period covered by this (re)certification. Only one code can be entered. If the tenant benefits from more than one type of subsidy, use the code for the project-based subsidy the tenant will be receiving.

Example: If a tenant in a Section 236 project will receive Section 8 assistance, other than a Section 8 Housing Choice Voucher, enter "1".

Example: If a tenant in a Section 236 project receives Section 8 assistance through a Housing Choice Voucher, enter "4".

Acceptable codes are as follows:

1- Section 8	4- Section 236	7- Section 202/PRAC
2- Rent Supplement	5- BMIR	8- Section 811 PRAC
3- RAP	6- Reserved	9- Section 202/162 PAC
0- Market Rent Tenants not covered by Section 236 or BMIR		

(MAT TENHR Field 21)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 3** Secondary Subsidy  
Type

Enter “S” if this tenant is receiving Section 8, RAP, or Rent Supplement and is living in a Section 236 project. Leave Blank if the tenant does not live in a Section 236 project

(MAT 10 Section 2 Field 86)

**Note: For TRACS purposes, a Space = Blank**

**Item 4** Property ID

This is a numeric field that is assigned by **iREMS** (**i**ntegrated **R**eal **E**state **M**anagement **S**ystem). Please leave blank until this field is activated by TRACS.

(MAT TENHR Field 22 Future Field)

Note: Once the Project ID is assigned, it must be included on all future certifications.

**Note: TRACS is not edit-checking information for this field at this time**

**Item 5** Project Number

Enter the 8-digit FHA, Elderly Housing, or State Agency noninsured project number. This field is mandatory for Section 236, BMIR, Rent Supplement, RAP, PAC, and PRAC subsidy types. It is also required for those Section 8 contracts for which an FHA project number applies.

Sample entries are as follows: FHA Insured Projects – 12144026  
Elderly Housing Projects – 121EH001  
Other noninsured Projects – 121001NI

(MAT TENHR Field 23)

Note: Do not use “0000FMHA” as a project number for an FMHA/RHS property. There should not be a project number for these properties.

**Item 6** Contract Number

This number is mandatory for Section 8, 202/162 PAC, 202 PRAC, and 811 PRAC subsidy types. This number will be used for all transactions under this TENHR. Enter the 11-digit subsidy contract number. Do not enter dashes in this Alphanumeric field (e.g., AK123456789)

(MAT TENHR Field 24)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 7 Telecom Address** The project’s telecommunications identifier, also known as the **iMAX ID**. The first five positions of this number must be “TRACM”, and HUD assigns the last five positions. For example, TRACM29999.

(MAT TENHR Field 26)

**Note:** iMAX stands for **i**ntegrated **M**ultifamily **A**ccess **eX**change

**Item 8 Plan of Action Code** This field is specifically for Title II or Title VI projects. This indicator of “2” or “6” is used to modify the Section 8 edit to accept Plan of Action computations. **Fill this Item in ONLY if the TTP or TR has been reduced due to the POA phase-in rules.** If the property is under the Plan of Action Title II, enter a “2” in this Item. If the property is under the Plan of Action Title VI, enter a “6” in this Item. Otherwise, leave blank. (MAT 10 Section 2 Field 92)

**Item 9 HUD-Owned Project?** If the project is HUD-owned, enter a “Y” to enable certifications to be submitted to TRACS.

(MAT 10 Section 2 Field 93)

**Item 10 FIPS County Code** The Federal Information Processing Standards is a code that designates the county in which the project is located.

(MAT 10 Section 2 Field 10 Future Field)

**Note: TRACS is not edit-checking information for this field at this time**

**Item 11 Previous Housing Code** Complete this field only for Move-ins. Select the code that best describes the physical condition of the housing from which the family is moving.

- |   |   |
|---|---|
| 1 = Substandard                               | 3 = Standard  |
| 2 = Without or about to be<br>Without Housing | 4 = Conventional Public Housing<br>(Owned by a Public Housing Agency) |

(MAT 10 Section 2 Field 23)

**Note:** “Substandard” means physically substandard and does not include overcrowding.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 12** Displacement  
Status

Complete only for Move-ins. Enter one of the codes listed below. Select the code that best describes the reason the family was displaced. If the family was not displaced, enter Code “4”.

1 = Government Action                      3 = Private Action  
2 = Natural Disaster                        4 = Not Displaced

(MAT 10 Section 2 Field 24)

**Item 13** Effective Date

Enter the date this (re)certification is to be effective. For a move-in (MI), use the date the tenant moved into the project. For an Initial Certification (IC), use date the tenant began to receive the type of assistance in item 2. For an Annual Recertification (AR) or an Interim recertification (IR), refer to Chapter 7, Sections 1 & 2, of HUD Handbook 4350.3 REV-1 for assistance in determining this date. Enter effective date as MMDDYYYY.

(MAT 10 Section 2 Field 11 4350.3 REV-1: Use Chapter 7 and Paragraph 9-8 as general references)

Note: Effective date should never be confused with the Reported on/effective, and the reported on/voucher date is the date that the action was first reported to HUD and included on a voucher.

**Item 14** Anticipated  
Voucher Date

Enter the voucher period (month, day, year) for which the (re)certification will first appear. When the (re)certification is for Subsidy Type “4” (Section 236) or Type “5” (BMIR), enter the date that is the first of the month corresponding to the (re)certification effective date.

(MAT 10 Section 2 Field 85 4350.3 REV-1; Appendix 9)

Note: When entering the date MMDDYYYY, the “DD” will always be “01” Voucher date. The Effective date is the date the certification is to be

**Item 15** Next Recertification  
Date

Refer to the 4350.3 REV-1, Paragraph 7-5 regarding the next recertification date for Annual Recertifications, Move-Ins, and Initial Certifications types. Interim Recertifications, Gross Rent Changes, and/or Unit Transfers do not affect this date.

(MAT 10 Section 2 Field 70 4350.3 REV-1; Paragraph 7-5)

Note: The next Annual Recertification date should not be more than one year after the effective date of the certification being submitted. However, there are instances where it can be less than one year.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 16** Project Move-In  
Date

Enter the date the family moved into the project. This date must be entered as MMDDYYYY.

(MAT 10 Section 2 Field 12 4350.3 REV-1; Paragraphs 3-5D and 3-10B)

**Item 17** Unit Move-In Date

The date (MMDDYYYY) the family moved into this unit. This date can be different from the project Move-in date (Item 16). If the family has changed units, this date will be later than the date the family moved into this project (e.g., Unit Transfer)

(MAT 10 Section 2 Field 89 Future Field)

**Note: TRACS is not edit-checking information for this field at this time**

**Item 18** Certification Type

Enter only one code in this Item that best describes the main reason for preparing this form. If a previous (re)certification is being corrected, use the same code that was on the original (re)certification. If a partial certification is being created, such as a Unit Transfer or Gross Rent change, please leave this field blank.

The following are valid codes for this Item:

Move-In (Code MI). Use this code only when a new tenant moves into the project. Codes CR and CS (converting a tenant from RAP or Rent Supplement to Section 8) are no longer being used. If a tenant is converting from RAP or Rent Supplement to Section 8, first submit a termination from RAP or Rent Supplement followed by an Initial Certification to Section 8. On the Initial Certification, show the Previous Subsidy Type (Item 22) as RAP or Rent Supplement.

Initial Certification (Code IC). Use this code:

1. When an in-place Market Rent, a Section 236 or a BMIR tenant begins receiving subsidized rent.
2. To give Section 8, 811/202 PRAC, 202/162 PAC, Rent Supplement, or RAP assistance to an in-place tenant who is now paying a rent not based upon the tenant's income (e.g. paying 236 Basic Rent or BMIR rent, when they would be eligible for a lesser rent under the deeper subsidy program.)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

- To transfer a tenant to another unit within the same “project” but onto a different contract the owner must first process a termination (MAT 65 Code CE- Subsidy contract expired or combined with a renewal contract). This is then followed by an Initial Certification. Because this tenant is still in the same project, they are not subject to admission and eligibility requirements.

Note for #3: If the IC changes the next recertification date in the reporting software; change it back to the former recertification anniversary date.

Annual Recertification (Code AR). Use this code for regularly scheduled recertifications. Please see 4350.3 REV-1, Chapter 7, Section 1.

Interim Recertification (Code IR). Use for any changes in family circumstances (e.g., income, deductions, and household composition) with an effective date which is different than the Annual Recertification effective date.

(MAT 10 Section 2 Field 13 4350.3 REV-1; Chapter 7, Section 2)

**NOTE:** If a Gross Rent Change or Unit Transfer has the same effective date as a full certification for the tenant, include the new GRC and/or UT information as part of the full certification.

Note: This Item is also known as the Transaction type.

**Item 19** Action Processed The valid codes for this Item are:  
1 = for a Correction to a prior 50059  
Leave blank, when there is no correction.

(MAT 10 Section 2 Field 14)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

- Item 20** Correction Type      The valid codes for this Item are:  
Blank = No Correction  
1 = Administrative Resubmission  
2 = Corrects Owner/Agent certification errors  
3 = Corrects Tenant Misreporting
- (MAT 10 Section 2 Field 15)
- Note: If the Action Processed code (Item 19) is “1”, the Correction Type code must be filled in. Otherwise, leave blank.
- Item 21** Cert. Correction Date      This date is the Certification/Transaction Effective date (Item 13) that was submitted with the full (re)certification being corrected with this transaction. It is used by TRACS to locate the specific (re)certification being corrected.
- (MAT 10 Section 2 Field 16 Future Field)
- Note: TRACS is not edit-checking information for this field at this time**
- Item 22** Previous Subsidy Type      If the subsidy type has changed from the previous (re) certification or the tenant has changed from receiving assistance to Market Rent or from Market Rent to receiving assistance, enter the code, as listed in Item 2, associated with the previous subsidy type. Fill in for IC’s only.
- (MAT 10 Section 2 Field 17)
- Note: Leave blank if the tenant has no previous history in this project  
Formerly this Item was called “Subsidy Change Indicator”
- Item 23** Unit Number      If each unit number is used only once within a project, enter unit numbers (e.g., 201, 402). If a unit number is used more than once within a project, use a unique method to identify each unit. Assign a letter or an additional number before the unit number (e.g., A101, B101).
- (MAT 10 Section 2 Field 73)
- Note: It is recommended that unit numbers not be changed after they have been established. This can create difficulties at TRACS.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 24** No. of Bedrooms      The number of bedrooms in the unit. For the guidelines on occupancy standards, please see 4350.3 REV-1, Paragraph 3-23.

(MAT 10 Section 2 Field 71)

**Item 25** Building ID              Enter the REAC-assigned Building Number.  
(MAT 10 Section 2 Field 72 Future Field)

**Item 26** Unit Transfer Code      Enter “Y” if this Unit Transfer occurs within the same contract and project numbers **AND** requires a full (re)certification (MAT10 TRACS record). **Otherwise**, complete a HUD-50059A (partial certification) for the Unit Transfer (MAT70 TRACS record).  
(MAT 10 Section 2 Field 94)

Note: If the unit number in a (re)certification is not the same as it was in the last (re)certification, and the Unit Transfer code does not have a “Y” in the correct field, the (re)certification will fatal at TRACS.

**Item 27** Previous Unit No.      This Item is required if Item 26, Unit Transfer Code, is filled in with a “Y”. Enter the unit from which the tenant transferred.

(MAT 10 Section 2 Field 95)

**Item 28** Security Deposit        See 4350.3 REV-1, Figure 6-6 to determine the Security Deposit amount required at Move-in. Even though owners can accept the security deposit in installments, the amount entered should be the security deposit amount shown on the lease.

(MAT 10 Section 2 Field 74 4350.3 REV-1; Chapter 6 Section 2; Figure 6-6)

**Item 29** Basic Rent                Enter the rent HUD or the Contract Administrator has approved for this unit type. Use only for Section 8, RAP or Rent Supplement (re)certifications in a Section 236 property. Enter the Section 236 Basic Rent amount.

(MAT10 Sec 2 Field 68)

Note: Enter zero, **IF** not applicable

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 30 Market Rent** This field is required if Section 236 is the primary or secondary subsidy. Enter the rent HUD or the Contract Administrator has approved for this unit type.

(MAT 10 Section 2 Field 48) Note: Enter zero, **IF** not applicable

**Item 31 Contract Rent** Enter the rent HUD or the Contract Administrator has approved for this unit type. The Contract Rent is the Section 8/RAP Contract Rent, the Section 236 Basic Rent, the Section 221 (d) (3) BMIR Contract Rent, or the Rent Supplement Unit Rent, as applicable.

For the Section 202 PAC or PRAC and Section 811/PRAC projects enter the operating rent (operating cost). If all of the utilities are included in the rent, enter the operating rent (operating cost). If the tenant pays utilities separately, enter the gross rent minus the HUD approved utility allowance to arrive at the operating rent (operating cost).

(MAT 10 Section 2 Field 57) Note: The amount cannot be zero.

**Item 32 Utility Allowance** If all of the utilities are included in the rent, enter zero. If not, enter the amount HUD or the Contract Administrator has approved for this unit type.

(MAT 10 Section 2 Field 58)

**Item 33 Gross Rent** Enter the sum of Item 31, Contract Rent (CR), plus Item 32, Utility Allowance (UA).  $CR + UA = GR$

(MAT 10 Section 2 Field 59)

Note: This Item is also known as PRAC Operating Rent and PAC Operating Cost.

## **Section C Household Information:**

**Item 34 Family Member No.** Write each member's name beside a number. The Head of Household must have the number "01". Each person in the household must have their own Family Member number because it will be used to associate income and assets to specific family members.

(MAT 10 Section 3 Field 3)

Note: Item 38, Relationship Code, must be H for the Head of Household. No other family records for the household may contain this code or "01" for the family member number.

**Item 35, 36 & 37 Names**

**Of Household Members** List the names (Last, First, Middle Initial) of each member who will be residing in this unit. The first member listed should be the Head of Household.

The list of members should be in the following order: Head, Spouse or Co-Head, Dependents, Other family members age 18 or older, Foster children under age 18, Other Non-family members (e.g. Live-in Attendants, Foster adults).

(MAT 10 Section 3 Fields 4, 5, & 6)

Note: If a household member has a Middle Initial, fill in Item 37.

**Item 38 Relationship Code** List persons living in the unit in the following order and state each person's relationship to the head by using one of the codes listed below. See Chapter 3 of HUD Handbook 4350.3 REV-1 concerning the eligibility of families to assisted housing. Only the following codes may be entered.

H - Head (There can be only one head. If there is a spouse or co-head, list the same person as head on each recertification, as long as that person resides in the household. List the other person as spouse or co-head on each recertification.)

S - Spouse (There either can be a spouse or co-head, but not both.)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

K - Co-head (See paragraph 5-6 A of HUD Handbook 4350.3 REV-1 for guidance on how to count emancipated minors.) For the Section 202/8, Section 202 PAC, and Section 202 PRAC and Section 811 PRAC projects, to qualify for admission/assistance, persons must be age 62 or, if disabled, at least 18 years old. Therefore, a head, spouse or co-head under the age of 18 would not occur in these programs

D - Dependent. See paragraph 5-6 A of HUD Handbook 4350.3 REV-1. Count any member of the family currently living in the unit who is:

-Age 17 or younger.

-Age 18 or older and disabled or a full-time student.

O - Other adult member of the family who is not the head, spouse or co-head and whose income is counted in determining the family's annual income. See paragraph 5-6 of HUD Handbook 4350.3 REV-1. This member's status cannot be used to justify the family's eligibility for the elderly or medical allowances.

F - Foster child under the age of 18. See paragraph 5-6 A of HUD Handbook 4350.3 REV-1. The income of a child in this category is not counted in determining the family's annual income; the child does not qualify the family for a dependent allowance nor are medical or handicap assistance expenses considered for children in this category. However, child care expenses for children in this category who are under the age of 13 are considered under the child.

L - Others Living in the Unit Who are not Members of the Tenant Family. See paragraph 5-6 of HUD Handbook 4350.3 REV-1. Include, but not limited to foster adults, and live-in aides. See the regulatory definitions of these terms in the Glossary in HUD Handbook 4350.3 REV-1. See also paragraph 3-6 E of HUD Handbook 4350.3 REV-1 for guidance on live-in attendants. Persons in this category do not have rights under the lease. Persons in this category are not considered members of the family and their income is not counted in determining the family's annual income.

(MAT 10 Section 3 Field 7)

**Item 39 Sex**

Enter "F" for Female and "M" for Male for each person listed in the unit.

(MAT 10 Section 3 Field 8)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Items 40 and 41 are filled in based on whether or not household members have completed the Race & Ethnic Data form (HUD-27061-H). Parents or guardians are to complete the form for children under the age of 18. There is no penalty for persons who do not complete the form. However, place a note in the tenant file stating the applicant/tenant refused to complete the form**

**Item 40 Race**

Based on the Race & Ethnic Data form completed by each household member, please enter the appropriate letter listed below.

Note: If the Race & Ethnic Data form is not completed for a household member, enter “X” in this Item for that member.

X = Declined to report

I = American Indian or Alaskan Native

A = Asian

B = Black or African-American

H = Native Hawaiian or Other Pacific Islander

W = White

O = Other

e.g., If the Household member is Asian and White, as stated on form HUD-27061-H, enter **AW**.

e.g., If the Household member is Black or African-American, as stated on form HUD-27061-H, enter **B**.

(MAT 10 Section 3 Fields 18 through 23)

**Note:** For TRACS reporting purposes, MAT10 Section 3 Fields 18-23 should be left blank and MAT10 Section 3 Field 24, should be “Y”, if a household member declined to report their Race.

**Item 41 Ethnicity** Enter one of these valid codes for each household member, as stated on the HUD-27061-H:

0 = Tenant Declined to Report

1 = Hispanic

2 = Non-Hispanic

(MAT 10 Section 3 Field 17)

**Item 42 Birth Date**

Enter the Birth Date for each member of the household

(MAT 10 Section 3 Field 9)

Note: This Item must be entered in a MMDDYYYY format



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 43** Special Status  
Code

Identify any household member who may qualify for one of the following Special Status Codes. For each member, enter all of the codes that apply (e.g., an “E” Elderly tenant may also be “H”, Disabled).

E = Elderly Head, Co-Head, or Spouse (At least 62 years of age on certification effective date)

S = Full-time Student who is 18 or older, who is not Head, Co-Head, or Spouse.

H = Family member who is Disabled

J = Dependent whose custody is jointly shared by more than one family **and** who receives a dependent allowance along with a child care allowance where applicable

C = Dependent whose custody is jointly shared by more than one family **but** who does not receive a dependent allowance. Such a person’s child care expenses count toward the child care allowance.

K = Dependent whose custody is jointly shared by more than one family and lives in the unit 50% or more of the time. Count for unit size and income limit purposes. This code **must be paired** with a J code and may or may not be paired with a C code.

Note: The J and C codes are only applicable when the Relationship Code is set to D (Dependent). The K code is allowed when C is true and must be true when J is true. The J and C codes cannot both be set to true. A dependent (D) without either the J or C codes is assumed to be a full-time resident of the unit. Valid values are JK, C, CK.

Note: Ages are based on the effective date of this (re)certification

(MAT 10 Section 3 Field 10 4350.3 REV-1; Figure 3-6)

**Item 44** Student Status

Enter “Y” if student (either full or part-time) at an Institution of Higher Education is eligible for assistance under the rules as shown in the 4350.3 REV-1, Paragraph 3-13. Otherwise, leave blank.

(MAT 10 Section 3 Field 25)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 45 ID Code (SSN)** Enter the 9-digit Social Security Number for each of the household members. If there are dependents under the age of 6, the SSN is not currently required, but should be included if the information is available. Do not use dashes when entering these numbers. This is the family member's SSN/TRACS ID; it is not the SSN Benefit Claim Number.

(MAT 10 Section 3 Field 11 4350.3 REV-1; Paragraphs 3-9 and 3-31)

**Note:** If the tenant does not have a SSN, TRACS ID number, enter 999999999, and TRACS will assign a TRACS ID number.

**Item 46 Eligibility Code** Required by TRACS for all household members. See 4350.3 REV-1, paragraph 3-12. Leave blank for BMIR, 202/811 PRAC or 202/162 PAC. The valid values for this Item are:

EC = Member is a U.S. citizen or national

EN = Member is a non-citizen with eligible immigration status

IC = Ineligible non-citizen child of a family Head or Spouse/Co-Head

IN = Member is an Ineligible Non-Citizen

IP = Ineligible Parent of a Head of Household or Spouse/Co-Head

PV = Member's eligibility status is Pending Verification – documentation has been submitted. For use when the family is receiving prorated assistance at admission. Member is treated as eligible for pro-ration purposes.

XX = Individuals who are not counted as members of the family (e.g., foster children/adults, live-in attendants, or persons with a relationship code of "F" or "L")

ND = No documentation submitted. For use when family is receiving pro-rated assistance at admission. Member is treated as ineligible for the purpose of determining pro-rated assistance.

(MAT 10 Section 3 Field 12 4350.3 REV-1; Paragraph 3-12, App. 2, Exhibit 3-5)

**Item 47 Alien Registration Number**

If the family member has been assigned an Alien Registration Number by INS, enter this number.

(MAT 10 Section 3 Field 13)

Note: This is an alphanumeric field

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

- Item 48** Age at Cert. This Item is not submitted to TRACS, so therefore, does not have a MAT field number. This Item is retained on the form because age can be a factor in determining eligibility and allowances. Enter the age as of the effective date of this (re)certification. (4350.3 REV-1; Paragraph 3-28C)
- Item 49** Work Codes This Item only needs to be filled in if child care and/or handicapped assistance is required to enable an adult family member to work. The following codes are valid for this Item:
- C = next to each adult family member who is able to work because child care is available
- H = next to each family member who is able to work because disability assistance is available
- CH = if both apply
- (MAT 10 Section 3 Field 15 4350.3 REV-1; Paragraphs 5-10B & C)
- Item 50** Family is Mobility Impaired? If a family member is mobility impaired, enter a “Y” in this field. If not, the Item should be filled in with an “N”.(MAT 10 Section 2 Field 96 4350.3 REV-1; Exhibit 2-2)
- Item 51** Family is Hearing Impaired? If a family member is hearing impaired, enter a “Y” in this Item. If not, the Item should be filled in with an “N”.
- (MAT 10 Section 2 Field 97 4350.3 REV-1; Exhibit 2-2)
- Item 52** Family is Visually Impaired? If a family member is visually impaired, enter a “Y” in this Item. If not, the Item should be filled in with an “N”.
- (MAT 10 Section 2 Field 98 4350.3 REV-1; Exhibit 2-2)
- Item 53** Number of Family Members The number of family members should add up to the number of individuals listed in Item 35, but should not include any members with the relationship code of “F” or “L” (Item 38).
- (MAT 10 Section 2 Field 26)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 54** Number of Non-Family Members

Enter the number of members with the relationship code of “F” or “L” (Item 38). These non-family members are not counted in Item 53.

(MAT 10 Section 2 Field 27 4350.3 REV-1; Paragraph 3-6E)

**Note:** Do not count their income as part of the annual income

**Item 55** Number of Dependents

A dependent is a family member that has a relationship code of “D” (Item 38). The following constitutes a dependent:

1. Under 18 years of age
2. A person with disabilities
3. Full time student of any age

(MAT 10 Section 2 Field 28 4350.3 REV-1; Paragraph 5-10A)

**Note:** A family member who is the Head, Spouse, Co-Head, Foster Child, or Live-in Attendant cannot be counted as a dependent.

**Note:** Do not include dependents under the age of 18 who have a Special Status Code (Item 43) of C.

**Item 56** Number of Eligible Members

List the number of family members who are eligible to receive housing assistance. This Item assists in determining whether or not the Assistance Payment needs to be prorated on this certification. **If there are eligible and non-eligible family members within the tenant household, the**

**Assistance Payment will need to be prorated.** See Pro-ration Procedures listed directly after the instructions for Item 114.

**Note:** See HUD Handbook 4350.3 REV0-1, 3-12B and Exhibit 3-12, 3-13, 3-14 for more guidance regarding pro-ration of assistance.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 57** Expected Family  
Addition-Adoption Enter the number of adopted family members expected  
  
(MAT 10 Section 2 Field 80 4350.3 REV-1; Paragraph 3-6E and 3-23E)  
  
**Note: Industry is receiving information for this field. TRACS is not.**

**Item 58** Expected Family  
Addition-Pregnancy Enter the number of expected family additions due to  
childbirth  
  
(MAT 10 Section 2 Field 81 4350.3 REV-1; Paragraph 3-6E and 3-23E)  
  
**Note: Industry is receiving information for this field. TRACS is not.**

**Item 59** Expected Family  
Addition-Foster  
Children Enter the number of expected foster children as family additions.  
  
(MAT 10 Section 2 Field 82 4350.3 REV-1; Paragraph 3-6E and 3-23E)  
  
**Note: Industry is receiving information for this field. TRACS is not.**

**NOTE: Leave Items 60-65 blank if this (re)certification is not changing the Head of Household (HoH) ID or changing the effective date for a previously submitted (re)certification.**

**Item 60** Previous Head  
Last Name This should be filled in if the Head of Household (HoH) identifier (HoH ID  
or (re)certification effective date) has changed.  
  
(MAT 10 Section 2 Field 6)  
  
TRACS Note: The only time that the Previous Head Last Name, First,  
Middle Initial, and Birth Date are required is if the HoH had no SSN when  
the Previous MAT 10 was submitted, and the T-id that TRACS assigned to  
the HoH was not recorded.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 61** Previous Head

First Name

This should be filled in if the Head of Household (HoH) identifier (HoH ID or (re)certification effective date) has changed.

(MAT 10 Section 2 Field 7)

**Item 62** Previous Head

TRACS Note: The only time that the Previous Head Last Name, First, Middle Initial, and Birth Date are required is if the HoH had no SSN when the Previous MAT 10 was submitted, and the T-id that TRACS assigned to the HoH was not recorded.

Middle Initial

This should be filled in if the Head of Household (HoH) identifier (HoH ID or (re)certification effective date) has changed.

(MAT 10 Section 2 Field 8)

TRACS Note: The only time that the Previous Head Last Name, First, Middle Initial, and Birth Date are required is if the HoH had no SSN when the Previous MAT 10 was submitted, and the T-id that TRACS assigned to the HoH was not recorded.

**Item 63** Previous Effective

Date

This should be filled in if the Head of Household (HoH) identifiers (HoH ID or certification effective date) of a previous MAT 10 have changed. This date should be the Certification Effective Date, identifying the previous MAT 10 for this HoH.

(MAT 10 Section 2 Field 5)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 64** Previous Head ID This should be filled in if the Head of Household (HoH) identifiers (HoH ID or certification effective date) of a previous MAT 10 have changed. This value should be the SSN/TRACS T-id, identifying the previous HoH.

(MAT 10 Section 2 Field 4)

**Item 65** Previous Head  
Birth Date

This should be filled in if the Head of Household (HoH) identifier (HoH ID or certification effective date) has changed. This must be in a MMDDYYYY format.

(MAT 10 Section 2 Field 9)

Note: The only time that the Previous Head Last Name, First, Middle Initial, and Birth Date are required is if the HoH had no SSN when the Previous MAT 10 was submitted, and the T-id that TRACS assigned to the HoH was not recorded.

DRAFT

**For Item 66 through Item 74, the following general references in HUD Handbook 4350.3 REV-1 are applicable:**

**Chapter 5, paragraphs 5-1 through 5-6; Section 3 of Chapter 5**

**Figure 5-  
2; Exhibit 5-  
1; Exhibit  
4-1;  
Appendix 8**

## **Section D Income Information:**

**Item 66 Member Number** This field should only be filled in for family members who report income, and should match the number assigned to each family member in Item 34, starting with the Head of Household “01”. A separate line should be completed for each income source for each family member. This means the Head, “01”, may be listed twice with two different income sources.

(MAT 10 Section 4 Field 3)

Note: This Item cannot be Zero, “00”.

**Item 67 Income Type Code** Corresponding with the member number in Item 66, fill in each source of income separately for each family member of the household receiving income. Please use the following codes. Each income source should have its own income code.

B = Business (including distributed profits and net income from business)  
CS = Child Support  
F = Federal Wages  
G = General Assistance/Welfare  
I = Indian Trust  
M = Military Pay  
N = Other Non-Wage source (including alimony)  
PE = Pensions (this includes veteran pensions, military retirement, and income from all other pensions and annuities)  
SI = Supplemental Security Income, SSI, (this covers both personal benefit, and State Supplements administered by the SS Administration)  
SS = Social Security (both personal and dual entitlements)  
T = TANF (Temporary Aid to Needy Families), formerly AFDC  
U = Unemployment



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

W = Non-Federal Wage (includes salaries, tips, commissions, bonuses, and other income from employment)

Note: A full-time student who is 18 years of age or older who is not the Head, Co-Head or Spouse is considered a Dependent. See the **Note** in Figure 5-2 of the 4350.3 REV-1 regarding the amount of earned income that can be counted toward the household's annual income.

(MAT 10 Section 4 Field 4)

**Item 68** Amount

Corresponding with the member number in Item 66, and the Income Type Code, Item 67, fill in each source of income separately for each family

member of the household receiving income. Enter the anticipated amount for the 12 month period following the effective date of this (re)certification, shown in Item 13.

(MAT 10 Section 4 Field 5)

Note: If a family member has no income, do not submit an Income Record for that individual.

**Item 69** SSN Benefits  
Claim No.

If the income from Item 67 is derived from Social Security (SS) benefits, enter the claim number that is used to collect those benefits that is other than the member's assigned SSN. For example, if a spouse is receiving benefits from a deceased husband's account, insert the 9 digit SSN of the deceased husband for the SS claim.

(MAT 10 Section 4 Field 8 Future Field)

**Note: TRACS is not edit-checking information for this field at this time**

**Item 70** Total Employment  
Income

Include the total amounts of income from Item 68 that have the following codes. List each Employment Income separately:

B = Business  
F = Federal Wages  
M = Military Pay  
W = Non-Federal Wage

(MAT 10 Section 2 Field 33)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 71** Total Pension  
Income

Include the total amounts of pensions (including Social Security and SSI) from Item 68 that have the following codes. List each Pension separately:

PE = Pensions  
SI = Supplemental Security Income, SSI,  
SS = Social Security

(MAT 10 Section 2 Field 34)

**Item 72** Total Public  
Assistance Income

Include the total amounts of Public Assistance from Item 68 that have the following codes. List each Public Assistance income separately:

G = General Assistance/Welfare  
T = TANF

(MAT 10 Section 2 Field 35)

**Item 73** Total Other Income

Include the total amounts of Other Income from Item 68 that have the following codes. List each Other Income separately:

CS = Child Support  
I = Indian Trust  
N = Other Non-Wage source  
U = Unemployment

(MAT 10 Section 2 Field 36)

**Item 74** Total Non-Asset  
Income

Add all income amounts from Items 70 through 73.

(MAT 10 Section 2 Field 37)

**For Items 75 through 85, the following general references in HUD Handbook 4350.3 REV-1 are applicable:**  
**Chapter 5, paragraph 5-7;**  
**Exhibit 5-2;**  
**Section 3 of Chapter 5;**  
**Appendix 8**

**Section E Asset Information:**

**Item 75 Member Number** This Item should only be filled in for family members who have assets, and should match the number assigned to each family member in Item 34 starting with the Head of Household “01”. A separate line should be completed for each asset for each family member. This means the Head, “01”, may be listed twice with two different assets.

(MAT 10 Section 5 Field 3 Future Field) This Item cannot be Zero, “00”.

**Note: TRACS is not edit-checking information for this field at this time**

**Item 76 Description** Enter all assets that are now owned, and those that have been disposed of for less than fair market value for the two years preceding this (re)certification’s effective date.

(MAT 10 Section 5 Field 4)

Note: List each asset separately

**Item 77 Status** There are only two codes allowed for this field. Please enter the code that corresponds with the asset:

C = Current (if the family still owns this asset)

I = Imputed (if the family has disposed of this asset within the last two years from the effective date (Item 13) for more than \$1,000 less than FMV (fair market value)

(MAT 10 Section 5 Field 5)

**Item 78 Cash Value** The cash value of an asset is the market value of the asset minus any expenses that could occur with the selling of the asset, or converting the asset into cash.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

(MAT 10 Section 5 Field 6 4350.3 REV-1; Paragraph 5-7C & D)

Note: When asset is a checking account, use the average 6 month balance.  
When asset is a savings account, use the current balance.

Note: TRACS will not accept a negative value for this field.

**Item 79** Actual Yearly  
Income

Enter the anticipated amount for the 12 month period following the effective date of this (re)certification.

(MAT 10 Section 5 Field 7 4350.3 REV-1; Paragraph 5-7B)

Note: TRACS will not accept a negative value for this field.

**Item 80** Date Divested

If the status of an asset in Item 77 is "I", enter the date the asset was disposed of for less than fair market value.

(MAT 10 Section 5 Field 8 4350.3 REV-1; Paragraph 5-7G (7))

**Item 81** Cash Value  
of Assets

Total the cash value of each asset listed in Item 78.

(MAT 10 Section 2 Field 29)

**Item 82** Actual Income  
From Assets

Total the Actual Yearly Income from assets listed in Item 79.

(MAT 10 Section 2 Field 30)

**Item 83** HUD Passbook  
Rate

The HUD Passbook Rate is at 2.0% until further notice. Enter 2.0% on the 50059 form.

Since this Item has a six field length in TRACS, and only four decimal positions are needed, enter 000200 as the HUD Passbook Rate in the TRACS file.

(MAT 10 Section 2 Field 31 4350.3 REV-1; Paragraph 5-7F (1) b)

Note: Enter 000000, if not applicable. For example, enter 0's if the Cash Value of Assets (Item 81) is less than or equal to \$5000

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 84** Imputed Income  
From Assets

If the Total Cash Value, Item 81, is less than or equal to \$5000, enter zero. However, if the Total Cash Value is more than \$5000, multiply the amount listed in Item 81 by the HUD Passbook Rate, Item 83. Enter the amount.

(MAT 10 Section 2 Field 32 4350.3 REV-1; Paragraph 5-7F)

Note: For BMIR properties, it is not necessary to determine if the total value of the assets exceed \$5000. The rule for imputing income from assets does not apply to the BMIR program.

**Item 85** Asset Income

Enter the greater of Item 82 or Item 84.

**For Item 86 through Item 114, the following general references in HUD Handbook 4350.3 REV-1 are applicable:**

**Chapter 3, paragraph 3-6;**

**Figure 3-2;**

**Figure 3-3;**

**Chapter 5, Section 2;**

**Chapter 5, Section 4;**

**Exhibit 5-3;**

**Exhibit 5-8;**

**Appendix 8**

**Section F Allowances & Rent Calculations:**

**Item 86** Total Annual  
Income

The sum of Item 74 plus Item 85.

(MAT 10 Section 2 Field 39 4350.3 REV-1; Appendix 8)

**Note: For Items 87 through 89, the amount entered is determined by family size. Refer to the website, [www.huduser.org](http://www.huduser.org) to find the applicable Income Limits.**

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 87** Low Income  
Limit

For all subsidy types, except BMIR, the Low Income Limit is 80% of the median income for the area.

BMIR Tenants: Enter the amount of the HUD-issued BMIR Income limit, which is 95% of the median income for the area. If Item 86 (Total Annual Income) is greater than Item 87 (Low Income Limit) and this is a:

1. Move-In - the applicant may not be admitted to a BMIR unit (even if the applicant is willing to pay Market Rent)
2. Recertification - the tenant must pay the BMIR Market Rent

All Other Tenants: Enter the amount of the HUD-issued Section 8 Low Income limit. If Item 86 (Total Annual Income) is greater than Item 87 (Low Income Limit), it must be determined whether this applicant can be admitted based on the HUD regulations. If the tenant moves in, the tenant must pay Market Rent.

(MAT 10 Section 2 Field 40 4350.3 REV-1; Paragraph 3-6/Figure 3-2 and 3-3)

Note: Refer to the 4350.3 REV-1 Paragraphs 3-7 and 3-8 for guidance with regard to exceptions and the admission of over-income applicants.

**Item 88** Very Low Income

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Limit** The Very Low Income limit is based on 50% of the area median income, as determined by HUD.

(MAT 10 Section 2 Field 41 4350.3 REV-1; Paragraph 3-6/Figure 3-2 and 3-3)

**Item 89** Extremely Low  
Income Limit

The Extremely Low Income limit is based on 30% of the area median income, as determined by HUD.

(MAT 10 Section 2 Field 42 4350.3 REV-1; Paragraph 3-6/Figure 3-2 and 3-3/ Paragraph 4-5)

Note: HUD may establish income ceilings higher or lower than 30% of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes

**Item 90** Current Income  
Status

This Item should only be filled in for Section 8 tenants. If this is not a Section 8 tenant, leave blank. Compare the Total Annual Income (Item 86) to the Income Limits entered in Items 87, 88, and 89.

If Item 86 is less than or equal to Item 89, enter “3”, Extremely Low Income

If Item 86 is greater than Item 89, but less than or equal to Item 88, enter “2”, Very Low Income.

If Item 86 is greater than Item 88, enter “1”, Low Income.

(MAT 10 Section 2 Field 44)

Note: If code “1” was entered for a MI or an IC, and Item 91 is “Post 1981”, code “2”, this tenant can only receive Section 8 if the HUD Field Office has reviewed and approved an exception to the income eligibility requirements.

**Item 91** Eligibility Universe  
Code

This Item should only be filled in for Section 8 tenants. If this is not a Section 8 tenant, leave blank. If the HAP Contract for this unit was effective before 10/1/81, enter the code of “1”. If it was effective on or after 10/1/81, enter the code of “2” for this Item.

(MAT 10 Section 2 Field 43 4350.3 REV-1; Paragraph 3-7A & B)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 92** Sec. 8 Assist.1984  
Indicator

If the Eligibility Code, Item 91, is “2” (Post 1981), and the current Income Status code, Item 90, is “1” (Low Income), enter “Y” or “N” for this Item. Otherwise, leave this Item blank.

(MAT 10 Section 2 Field 45)

**Item 93** Income Exception  
Code

Enter one of the following Income Exception Codes, if Item 90 is “1”, and Item 91 is “2”.

CV = The tenant was or is now being converted from RAP or Rent Supplement to Section 8, or received, or will now begin to receive, Section 8 as a result for a sale of a HUD owned project.

AA = Tenant was admitted to the Section 8 program before the project received HUD’s 6/29/84 memorandum, and the tenant started receiving assistance before 8/1/84. This code cannot be used on new Move-Ins, only for tenants who previously received this code.

EAT = This code is the same as “AA”, but the tenant began receiving subsidy on or after 8/1/84. This code cannot be used on new Move-Ins, only for tenants who previously received this code.

EDT = HUD approved exception under Situation 1 for an in-place tenant who would otherwise be displaced. Refer to HUD Handbook 4350.3 REV-1, Exhibit 3-1.

EIT = Do not use this code for new move-ins. Continue to use this code for tenants who previously received a HUD approved income exception.

EP = Tenant was admitted under HUD approved Project-based exceptions. See Situations 3 through 6 in Exhibit 3-1 of HUD Handbook 4350.3 REV-1.

(MAT 10 Section 2 Field 46 4350.3 REV-1; Paragraph 3-7D)



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 94** Police/Security  
Tenant?

If the owner has received permission from HUD to admit over-income police or security personnel, enter “Y”. Income limits do not apply for this tenant, and the Total Tenant Payment must be at least what the tenant would pay if subsidized.

(MAT 10 Section 2 Field 69 4350.3 REV-1; Paragraph 3-8D and 5-27)

Note: The owner is not entitled to vacancy payments for the period following occupancy by a police officer or security personnel.

Otherwise, leave blank or enter “N”

**Item 95** Survivor of  
Qualifier?

If the current Head of Household does not meet the eligibility requirements to qualify for the unit, but does qualify as the survivor of the person who originally met the special requirements and qualified for the unit, enter “Y”.

(MAT 10 Section 2 Field 87 4350.3 REV-1; Paragraph 3-16)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 96 Household**

Assistance Status This Item is required by TRACS for tenants with a Project MI date on or after 6/19/95, and for all in-place tenants no later than 6/19/96.

The following are the valid codes for this Item:

- N = Subsidy Type is **not** subject to the Non-Citizen Rule
- E = All members of the family are eligible under the Non-Citizen Rule. The family receives full assistance. No members have a PV status
- C = Continued Assistance. The mixed family, resident on/before June 19, 1995, qualifies for continuation of full assistance under the Non-Citizen Rule.
- P = Prorated Assistance. The family qualifies for and receives Prorated Assistance under the Non-Citizen Rule because only some of the family members are eligible for assistance. Note: A member with an eligibility code of PV will be counted as eligible. A member with a code of ND will be counted as ineligible.
- F = Full Assistance while the verification of eligibility is pending. A family is in this status if all members are eligible for assistance or have submitted documentation but the verification process is not yet complete (Member Eligibility Code = PV) when the family moves in. At least one member must be eligible. If any member is ineligible or has an ND eligibility code, use the Prorated Assistance Code (P), not Full Assistance.
- T = Temporary Deferral of Termination. The family, currently receiving full assistance, is found to be ineligible for assistance under the Non-Citizen Rule, or the family qualifies for Prorated Assistance and elects Temporary Deferral of Termination status instead. Tenants with this code receive full assistance. This code should only be used for tenant households meeting the exception to the 18 month deferral period. Also, refer to 4350.3 REV-1; Paragraph 3-12Q(3) NOTE: "If the family receiving assistance on June 19, 1995 includes a refugee under section 207 of the Immigration and Nationality Act, or an individual seeking asylum under section 208 of that Act, a deferral can be given to the family and there is no time limitation on the deferral period. The 18 month deferral limitation does not apply."

(MAT 10 Section 2 Field 79 4350.3 REV-1; Paragraph 3-12 and Glossary)

Note: If this Item is not completed and submitted when required, TRACS will generate a discrepancy message.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 97** Deduction for  
Dependents

Multiply the Number of Dependents listed in Item 55 by \$480.  
For BMIR, enter zero.

(MAT 10 Section 2 Field 47 4350.3 REV-1; Paragraph 5-10A)

Note: Dependents are children under the age of 18 (excluding Foster children), and other family members over the age of 18, who are full-time students or disabled. **However**, a dependent with a Special Status Code of C is not counted.

**Item 98** Child Care  
Expense (work)

Enter the amount of childcare expense incurred that enables a family member to work. Only expenses incurred for the care of children, including foster children, who are under the age of 13, can be included. However, the allowable expense cannot exceed the amount earned as the result of the child care provided.

(MAT 10 Section 2 Field 83 4350.3 REV-1; Paragraph 5-10B)

Note: Enter "C" in Item 49 if an amount greater than zero is entered in this Item.

If claiming child care to work for a full-time student, who is not the Head, Co-Head, or Spouse, the associated child care allowance is restricted to the lesser of the actual amount or \$480.

**Item 99** Child Care  
Expense (school)

This Item relates to expenses incurred when an adult family member is attending school or looking for work. Only expenses incurred for the care of children, including foster children, who are under the age of 13, can be included.

(MAT 10 Section 2 Field 84 4350.3 REV-1; Paragraph 5-10B)

**Item 100** 3% of Income

Multiply the Total Annual Income listed in Item 86 by 0.03 (3.0%)

(MAT 10 Section 2 Field 49)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 101** Disability  
Expense

Enter the anticipated amount the family expects to pay for qualifying attendant care and auxiliary apparatus required for employment for the 12 month period following the effective date of this (re)certification, Item 13. This enables a family member 18 years or older, including the family member who is a person with disabilities, to be employed. If the family will not incur any disability expenses over the next 12 month period, enter zero in this Item, and continue on to Item 103.

(MAT 10 Section 2 Field 50 4350.3 REV-1; Paragraph 5-10C)

Note: If an amount has been entered in this Item, an “H” must have been entered in Item 49, Work Codes.

**Item 102** Disability  
Deduction

The Disability Deduction is the eligible amount that **exceeds** 3% of the family’s annual income. See Paragraph 5-10C(3), Example

If Item 101 (Disability Expense) is less than Item 100 (3% of annual income), enter zero.

If Item 101 is greater than Item 100, enter the **LESSER** of...

Item 101 **OR**

the employment income earned by the person with disabilities or employment income earned by other family members 18 years of age or older, because attendant care or auxiliary apparatus is provided  
See Paragraph 5-10C(6) Example

**Important:** When the same provider takes care of a person with disabilities over the age of 12 and other children, age 12 and under, in the same family, the owner/agent must prorate the total cost and allocate a specific cost to attendant care. The sum of both child care (Item 98) and disability expenses (Item 101) cannot exceed the employment income of the family member enabled to work. See Paragraph 5-10C(7) Example

(MAT 10 Section 2 Field 51 4350.3 REV-1: Paragraph 5-10C)

**Item 103** Medical Expense

Medical expenses are permitted for elderly and disabled families. A family is determined to be elderly or disabled if the Head(H), Spouse(S) or Co-Head(K) is at least 62 years or older on the effective date of certification/recertification or is a person with disabilities.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

If medical expenses are determined to be an allowable deduction, include the **unreimbursed** medical expenses for all family members. Otherwise, enter zero.

Medical expenses include all **unreimbursed** expenses the family anticipates to incur during the 12 months following the certification/recertification. Use the ongoing expenses the family paid in the 12 months preceding the certification/recertification to estimate anticipated medical expenses.

(MAT 10 Section 2 Field 52 4350.3 REV-1; Paragraph 5-10D/Exhibit 5-3)

**Item 104** Medical  
Deduction

Enter zero in this Item if the amount in Item 103 is zero.

If Item 101 (Disability Expense) is zero, subtract Item 100 (3% of Annual Income) from Item 103 (Medical Expense) and enter the amount in this Item.

However, if an elderly or disabled family has both **unreimbursed** medical expenses and eligible disability expenses, a special calculation is required to ensure that the family's 3% of income expenditure is applied only one time. Choose the applicable situation below to determine the amount entered.

If Item 101 (Disability Expense) is greater than or equal to Item 100 (3% of Annual Income), enter the amount from Item 103 (Medical Expense) in this Item. 4350.3: Paragraph 5-10D(5)

**OR**

If Item 101 is less than Item 100, use the following calculation to determine the amount to be entered in this Item...

(Item 103 + Item 101) – Item 100 4350.3 REV-1; Paragraph 5-10D(9)

Note: If the result is negative, enter zero in this Item.

(MAT 10 Section 2 Field 53 4350.3 REV-1: Paragraph 5-10D)

**Item 105** Elderly Family  
Deduction

If the Head, Co-Head, or Spouse has a Special Status code listed in Item 43, "E" for Elderly (meaning 62 or older), or "H" for Handicap/Disabled, the household is entitled to a \$400 Elderly Household Allowance.

(MAT 10 Section 2 Field 54 4350.3 REV-1; Paragraph 5-10E)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 106** Total Deductions Add the following Items and enter the amount.

Items 97 + 98 + 99 + 102 + 104 + 105 = Item 106, Total Deductions

(MAT 10 Section 2 Field 55)

**Item 107** Adjusted Annual

Income

Subtract Item 106 from Item 86. If Item 106 is greater than or equal to Item 86, enter zero.

(MAT 10 Section 2 Field 56)

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Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 108** Total Tenant  
Payment

The Total Tenant Payment (TTP) is the amount a tenant is expected to contribute for rent and utilities. The TTP for Section 8, PAC, PRAC, RAP, and Rent Supplement properties is based on the family's income. For Section 236 and BMIR tenants, enter zero.

For Section 8, RAP, PRAC, PAC the Total Tenant Payment (TTP) is the greater of:

- 30% monthly adjusted income;
- 10% monthly gross income;
- Welfare rent (welfare recipients in as-paid localities only); or
- \$25 minimum rent (Section 8 only).

Note: A property may only admit an applicant to Section 8, RAP, and PAC programs, if the TTP is less than the gross rent. This does not apply to the PRAC program. In some instances under the PRAC program, a tenant's TTP will exceed the PRAC operating rent (gross rent).

For Rent Supplement:

The Total Tenant Payment (TTP) is the greater of:

- 30% of monthly adjusted income; or
- 30% of gross rent.

Note: For MIs and ICs, the amount of Rent Supplement assistance cannot be any less than 10% of the gross rent. If the initial amount of Rent Supplement assistance is less than 10% of the gross rent, the tenant is not eligible for Rent Supplement Assistance.

(MAT 10 Section 2 Field 64 4350.3 REV-1; Paragraph 5-25/Figure 5-6/ Exhibit 5-8)

Note: For RAP, Rent Supp. and Section 8 tenants, if the Household Assistance Status Code, Item 96, is "P", the Assistance Payment (AP), Total Tenant Payment (TTP), Tenant Rent (TR) and Utility Reimbursement (UR), if applicable, will be pro-rated values. See Pro-ration Procedures.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 109** Tenant Rent

For Section 8/RAP/Rent Supplement/Section 202/162 PAC, Section 202 PRAC and Section 811 PRAC tenants: Tenant Rent (TR) is the portion of the TTP the tenant pays each month to the owner for rent. When utilities are paid by the property, the Tenant Rent (TR) will equal the Total Tenant Payment (TTP), Item 108. If all, or part, of the utilities are paid by the tenant, the TR and TTP will not be equal. The TR will equal the TTP (Item 108) minus the Utility Allowance (Item 32). If the Utility Allowance (UA) is more than the TTP, enter zero and complete Item 110.  $TR = TTP - UA$

For Section 236 and BMIR tenants: Refer to HUD Handbook 4350.3 REV-1, Exhibit 5-8 for calculating Tenant Rent  
(MAT 10 Section 2 Field 65 4350.3 REV-1; Paragraph 5-26, 5-29)

Note: For RAP, Rent Supp. and Section 8 tenants, if the Household Assistance Status Code, Item 96, is "P", the Assistance Payment (AP), Total Tenant Payment (TTP), Tenant Rent (TR) and Utility Reimbursement (UR), if applicable, will be pro-rated values. See Pro-ration Procedures.

**Item 110** Utility  
Reimbursement

If the Utility Allowance (Item 32) exceeds the Total Tenant Payment (Item 108), subtract the TTP from the Utility Allowance and enter the difference. For Section 236, BMIR and Market tenants, leave this Item blank.

(MAT 10 Section 2 Field 66 4350.3 REV-1; Paragraph 5-26C)

Note: For RAP, Rent Supp. and Section 8 tenants, if the Household Assistance Status Code, Item 96, is "P", the Assistance Payment (AP), Total Tenant Payment (TTP), Tenant Rent (TR) and Utility Reimbursement (UR), if applicable, will be pro-rated values. See Pro-ration Procedures.



Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 111** Assistance  
Payment

Enter the amount the owner bills HUD on behalf of the tenant living in a Section 8, RAP, Rent Supplement, 202/811 PRAC, or PAC property. To determine this amount, subtract the TTP (Item 108) from the GR (Item 33). (GR = TTP + AP.) If the TTP is greater or equal to the GR, enter zero in this Item, except for a PRAC tenant. The assistance payment (AP) for a PRAC tenant is the Operating Rent minus the TTP. Enter the AP amount, even if the amount is a negative number (e.g.: -75 or (75)). For Section 236, BMIR and Market tenants, enter zero or leave this Item blank

(MAT 10 Section 2 Field 67 4350.3 REV-1; Paragraph 5-26B)

Note: For RAP, Rent Supp. and Section 8 tenants, if the Household Assistance Status Code, Item 96, is “P”, the Assistance Payment (AP), Total Tenant Payment (TTP), Tenant Rent (TR) and Utility Reimbursement (UR), if applicable, will be prorated values. See Pro-ration Procedures.

**Note: Pro-ration Procedures are listed directly after the instructions for Item 114.**

**Item 112** Welfare Rent

In states that have “As-Paid” Public Benefit programs, the welfare rent is based on the actual amount a family pays for shelter and utilities, the welfare rent is the maximum amount permitted under the welfare rule for rent and utilities. If not applicable, enter zero.

(MAT 10 Section 2 Field 60 4350.3 REV-1; Paragraph 5-6J & 5-26E)

Note: This Item is only applicable in “As-Paid” states.

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Item 113** Hardship  
Exemption

This is an exemption from the \$25 Minimum Rent requirements for a tenant that is unable to pay the Section 8 Minimum Rent due to a long-term or short-term financial hardship. The following are valid codes for this Item:

- 1 = The family has lost Federal, State, or Local government assistance, or is waiting for an eligibility determination.
- 2 = The family would be evicted if the Minimum Rent requirement were imposed.
- 3 = The family income has decreased due to a change in circumstances, including but not limited to loss of employment.
- 4 = A death in the family has occurred.
- 5 = Other applicable situations as determined by HUD, have occurred.

(MAT 10 Section 2 Field 63 4350.3 REV-1; Paragraph 5-26D)

Note: If a tenant has a financial hardship code listed on their 50059, they will need to verify the tenant's income every 90 days until the tenant can pay at least the minimum TTP of \$25.

**Item 114** Waiver Type  
Code

Leave blank if not applicable. Otherwise, this Item should be completed.

- AGE = Age waiver for an elderly property
- INC = Income (for subsidy types other than Section 8)
- NEAR = Near Elderly
- DSBL = Waiver for non-disabled person to move in to a property for the disabled (e.g., 811 PRAC)
- OTH = Other waiver not covered by the above codes

Note: If more than one waiver applies, pick the first code that applies.

Note: Proper documentation received from the local HUD Field Office or HUD Headquarters should be kept in the tenant file.

(MAT 10 Section 2 Field 88)

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Regarding required signatures on this completed HUD form, refer to HUD Handbook 4350.3 REV-1 Paragraph 9-5A (4) (b) and 9-8B (NOTE).**

**Pro-ration procedures for tenants whose Household Assistance Status code is “P”, Prorated Assistance (Item 96 of the form HUD-50059)**

**Refer to Exhibits 3-12 through 3-14 for guidance.**

CR = Contract Rent (Item 31)      BR = Sec. 236 Basic Rent (Item 29) GR =  
Gross Rent (Item 33)              MR = Sec. 236 Market Rent (Item 30) UA =  
Utility Allowance (Item 32)      UR = Utility Reimbursement (Item 110) TR = Tenant  
Rent (Item 109)                      TTP = Total Tenant Payment (Item 108)  
AP = Assistance Payment (Item 111)

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Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Section 8, RAP, and Rent Supplement programs (Exhibit 3-12)**

A) Calculate TTP and resulting AP without pro-rations

- 1) \_\_\_\_\_ Enter GR (Item 33 of HUD-50059)
- 2) \_\_\_\_\_ Determine TTP, per HUD-50059 instructions
- 3) \_\_\_\_\_ Subtract TTP from GR. This is AP amount that family would receive if no pro-ration was involved.

B) Calculate **prorated AP**

- 4) \_\_\_\_\_ Number of eligible Family members who are citizens or non-citizens with eligible immigration status
- 5) \_\_\_\_\_ Enter the fraction that represents the number of eligible family members and the number of family members in the tenant household. (e.g., five(5) family members and only three(3) family members eligible for assistance Fraction is 3/5
- 6) \_\_\_\_\_ Multiply Line 3 by the fraction is Line 5. This amount is the Prorated AP for this family. Enter amount in Item 111 of HUD-50059

C) Calculate **prorated TTP**

- 7) \_\_\_\_\_ Enter GR (Item 33 of HUD-50059)
- 8) \_\_\_\_\_ Subtract Line 6 from Line 7. This amount is the Prorated TTP for this family. Enter amount in Item 108 of HUD-50059

D) Calculated **prorated TR** and any UR (if applicable)

- 9) \_\_\_\_\_ Enter UA (Item 32 of HUD-50059)
- 10) \_\_\_\_\_ Subtract Line 9 from Line 8. This amount is the Prorated TR for this family. Enter amount in Item 109 of HUD-50059

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

If Line 10 is zero and in Item 109 of HUD-50059, complete Line 11

- 11) \_\_\_\_\_ If Line 9 is greater than Line 8, enter the difference in Item 110 (Utility Reimbursement) of HUD-50059  
Otherwise, leave blank

**Section 8, RAP and Rent Supplement Programs in a Section 236 project (Exhibit 3-14)**

A) Calculate difference between MR and BR for unit without pro-rations

- 1) \_\_\_\_\_ Enter MR (Item 30 of HUD-50059)
- 2) \_\_\_\_\_ Enter BR (Item 29 of HUD-50059)
- 3) \_\_\_\_\_ Subtract Line 2 from Line 1 and enter difference

B) Calculate prorated difference between MR and BR

- 4) \_\_\_\_\_ Enter number of people in the family who are Ineligible Persons (i.e., not a citizen or not an eligible non-citizen)
- 5) \_\_\_\_\_ Enter the fraction that represents the number of Ineligible Persons and the number of family members in the tenant household, (e.g., five (5) family members of which two(2) are Ineligible Persons) Fraction is  $2/5$
- 6) \_\_\_\_\_ Multiply Line 3 by the fraction in Line 5. This amount is the prorated difference between MR and BR

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

C) Calculate the assistance adjustment for Rent Supplement, RAP or Section 8 assistance the tenant would otherwise receive

- 7) \_\_\_\_\_ Enter GR (Item 33 of HUD-50059)
- 8) \_\_\_\_\_ Determine TTP (Item 108 of HUD-50059) without pro-rations
- 9) \_\_\_\_\_ Subtract Line 8 from Line 7. This amount is AP (Item 111 of HUD-50059) family would receive without being subject to pro-ration requirements
- 10) \_\_\_\_\_ Multiply Line 9 by Line 5. This amount is the Assistance Adjustment for the family.

D) Calculate the **prorated TTP**

- 11) \_\_\_\_\_ Add Line 6 + Line 8 + Line 10. Enter in Item 108 of the HUD-50059

Guam Elderly Housing (Guma Trankilidat)  
Tenant Selection Plan

**Section 236 without Benefit of Additional Assistance (Exhibit 3-13)**

A) Calculate difference between MR and TR without prorations

- 1) \_\_\_\_\_ Enter MR (Item 30 of HUD-50059)
- 2) \_\_\_\_\_ Determine TR, per HUD-50059 instructions
- 3) \_\_\_\_\_ Subtract Line 2 from Line 1 and enter result.

B) Calculate prorated difference between MR and TR

- 4) \_\_\_\_\_ Enter number of people in the family who are Ineligible Persons (i.e., not a citizen or not an eligible non-citizen)
- 5) \_\_\_\_\_ Enter the fraction that represents the number of Ineligible Persons and the number of family members in the tenant household. (e.g., five (5) family members of which two (2) are Ineligible Persons) Fraction is  $2/5$
- 6) \_\_\_\_\_ Multiply Line 3 by the fraction in Line 5. This amount is the prorated difference between MR and TR

C) Calculate the **prorated TR**

- 7) \_\_\_\_\_ Add Line 2 and Line 6 and enter result. This amount is the Prorated TR for this family. Enter amount in Item 109 of HUD-50059.