

**GUAM HOUSING AND URBAN RENEWAL AUTHORITY  
BOARD OF COMMISSIONERS  
RESOLUTION NO. FY2019-020**

**Moved By: CARL DOMINGUEZ**

**Seconded By: GEORGE PEREDA**

**RESOLUTION TO ADOPT THE UPDATED GUMA TRANKILIDAT (GUAM ELDERLY  
MULTIFAMILY HOUSING PROGRAM) ADMINISTRATIVE PLAN**

**WHEREAS,** HUD Occupancy Handbook 4350.3 requires all Public Housing Agencies that administer Multifamily Housing Programs to document written plans outlining *Occupancy Requirements for HUD's Subsidized Multifamily Housing Program*; and

**WHEREAS,** The 'Plan' must establish local policies for the administration of the Multifamily Housing Program in accordance with requirements set forth by the U.S. Department of Housing and Urban Development (HUD); and

**WHEREAS,** GHURA's Guma Trankilidat (Guam Elderly Housing Multifamily Housing Program) has revised the existing administrative plan to include updated mandates, regulations and policies that directly impact the current administration of the Multifamily Housing Program; and

**WHEREAS,** The Guma Trankilidat (Guam Elderly Housing Multifamily Housing Program) Administrative Plan is the supporting documentation to the Housing Agencies Annual Plan in accordance with 24 CFR 903; and therefore be it

**RESOLVED,** that the Board of Commissioners hereby adopts the updated Guma Trankilidat (Guam Elderly Housing Multifamily Housing Program) Administrative Plan.

**IN A SCHEDULED BOARD MEETING, SINAJANA, GUAM – AUGUST 12, 2019  
PASSED BY THE FOLLOWING VOTES:**

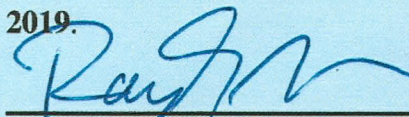
**AYES:** SABINO FLORES, MONICA GUZMAN, CARL DOMINGUEZ,  
GEORGE PEREDA, JOSEPH CAMERON, JOSEPH LEON GUERRERO

**NAYES:** NONE

**ABSENT:** NONE

**ABSTAINED:** NONE

I hereby certify that the foregoing is a full, true and correct copy of a Resolution duly adopted by the Guam Housing and Urban Renewal Board of Commissioners on **August 12, 2019.**



**RAY S. TOPASNA**  
Secretary/Executive Director

(S E A L)





**GUAM ELDERLY HOUSING PROGRAM  
(GUMA TRANKILIDAT)  
MULTIFAMILY HOUSING PROGRAM  
ADMINISTRATIVE PLAN  
Revised 2014**

# Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program Administrative Plan

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# Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program Administrative Plan

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## 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 Plan’ serves as a tool established by GHURA to effectively administer and manage the operation of the Multifamily Housing Program. The Administrative 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 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 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 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.

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.

# Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program Administrative Plan

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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 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 Plan:** This part discusses the purpose and organization of the plan and its revision requirements.

# Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program Administrative Plan

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## **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 (Guma Trankilidat) Multifamily Housing Program Administrative Plan

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## **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 Plan:

#### **GHURA Policy**

GHURA's Multifamily Housing Program Administrative 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 (Guma Trankilidat) Multifamily Housing Program Administrative Plan

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## **PART II: THE PROGRAM: GUAM ELDERLY HOUSING (GUMA TRANKILIDAT) MULTIFAMILY HOUSING 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 Plan', a document approved by the Board of Commissioners of the PHA.

The Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program is a Project-Based



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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**

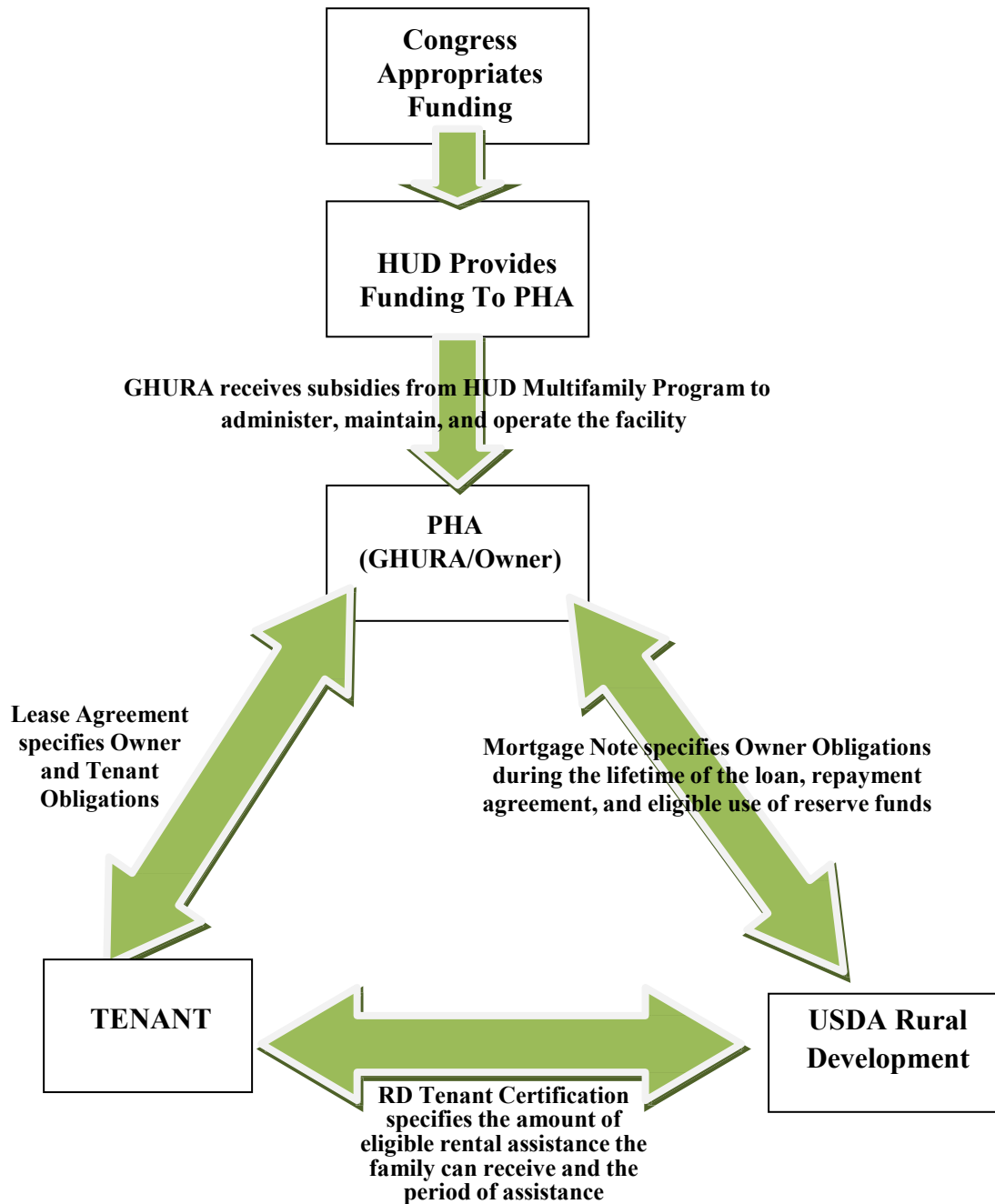
To administer the Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program, GHURA enters into a contractual relationship with HUD. GHURA also enters into contractual relationships with the assisted family through the use of the lease agreement.

For the Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program to effectively implement the program, all parties involved – HUD, RD, 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.

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



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**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;
- 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 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 or damages to

# Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program Administrative Plan

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- 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



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- 24 CFR Part 245, Tenant Participation in Multifamily Housing Project

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## **PART III: THE ADMINSTRATIVE PLAN: GUAM ELDERLY HOUSING (GUMA TRANNKILIDAT) MULTIFAMILY HOUSING PROGRAM ADMINISTRATIVE PLAN**

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

The Administrative Plan is required by HUD. The purpose of the Administrative 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 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 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 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 Plan must cover PHA policies on these subjects:

- Project eligibility requirements
  - Project specific requirements
  - Citizenship/immigration status requirements
  - Social security number (SSN) requirements
- Income limits
- Procedures for taking applications and selecting from the waiting list
  - Taking applications
  - Preferences

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- 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 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 ADMINISTRATIVE PLAN**

Modification of the Tenant Selection Plan/Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program Administrative 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 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.

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## CHAPTER 2: CIVIL RIGHTS AND NONDISCRIMINATION REQUIREMENTS

### 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.** This part provides the laws and regulations governing the responsibilities of GHURA relevant to occupancy in HUD-subsidized Multifamily Housing Programs.

**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: Additional Nondiscrimination and Accessibility Requirements for Persons with Disabilities.** This part explains the requirements and procedures that owners of HUD-subsidized Multifamily Housing must follow to ensure nondiscrimination and accessibility of their properties to persons with disabilities as required by Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act.

**Part IV: Housing Discrimination Complaints and Compliance.** This part details the obligations of GHURA to provide information about an owner's responsibilities in the event of a housing discrimination complaint and key references regarding fair housing compliance reviews.

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## **PART I: APPLICABLE LAWS**

### **2-I.A KEY REGULATIONS AND STATUTE**

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 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:

- 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
- Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA)
- When more than one civil rights law applies to a situation, the laws will be read and applied together.
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted.

### **2-I.B GENERAL PROVISIONS**

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Federal regulations prohibit discrimination against certain protected classes. 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” - Race, Color, Sex, Religion, and Familial status, Age, Disability or National Origin.

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 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.

## **2-I.C      FAIR HOUSING ACT**

The Fair Housing Act prohibits discrimination in most housing and housing-related transactions with respect to the following bases of Race; Color; Religion; Sex; Disability; Familial status; or National origin. The Act applies to all housing units subject to the HUD Occupancy Handbook 4350.3.

### **GHURA Policy**

GHURA will not use any of these factors to:

- Deny anyone the opportunity to apply to rent housing, or deny any qualified applicant the opportunity to lease housing suitable to his or her needs;
- Provide anyone housing that is different from that provided to others;
- Subject anyone to segregation, even if by floor or wing;
- Restrict anyone’s access to any benefit enjoyed by others in connection with the housing program;
- Treat anyone differently in determining eligibility or other requirements for admission, in use of the housing amenities, facilities or programs, or in the terms and conditions of a lease;
- Deny anyone access to the same level of services;
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program;
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons;
- Discriminate in the provision of brokerage services or in residential real estate transactions;
- Discriminate against someone because of that person’s relation to or association with another individual; or
- Retaliate against, threaten, or act in any manner to intimidate someone because he or she has exercised rights under the Fair Housing Act.



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### **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.

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

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units. In order for a unit to be considered accessible, it must meet the requirement of the Uniform Federal Accessibility Standards (UFAS).

### 2-1.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.

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)".

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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.

### **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.

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## **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.



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### **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

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with proceeding under the Fair housing Act.

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### **PART III: ADDITIONAL NONDISCRIMINATION AND ACCESSIBILITY REQUIREMENTS FOR PERSONS WITH DISABILITIES**

#### **2-III.A OVERVIEW AND GENERAL REQUIREMENTS**

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**

##### **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.

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### 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.

#### 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.

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- 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.
- 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.

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- 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.

### 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 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.



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- 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]

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;
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability;
- 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;

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- 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;
- 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.

### **Request for Reasonable Accommodations**

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. 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.

### **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.

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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].

- 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].
- 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].

**Approval/Denial of Request for Reasonable Accommodations** [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.

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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 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.

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.

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## **PART IV: HOUSING DISCRIMINATION COMPLAINTS**

### **2-IV.A 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.

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### **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



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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 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.

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## **PART I: PROGRAM ELIGIBILITY**

### **3-I.A GENERAL PROVISIONS**

GHURA is required to determine whether applicants are eligible to occupy the subsidized property and receive housing assistance. 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.

### **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.

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- 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.

#### **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 30 percent of the median income for the area, adjusted for family size.



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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 must be a *low-income* family.

### **3-I-E DISCLOSURE OF SOCIAL SECURITY NUMBERS**

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-day period. If the applicant does not satisfy the requirement within the 60 days, the applicant will be determined ineligible and removed from the waiting list.

### **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 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.

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### **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.

### **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.

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### **GHURA Policy**

Family members who declare citizenship or national status will be required to provide additional documentation to GHURA such as a birth certificate or passport.

### ***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.

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.

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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 10.

### **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.

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### 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 lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

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**

#### **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 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.

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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.

### **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. 10].

*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. 10].



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### 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.

### 3-I.Q FULL-TIME STUDENT [24 CFR § 5.603]

A *full-time student* (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution.

Identifying each FTS is important because (1) each family member that is an FTS, other than the head, spouse, or cohead, qualifies the family for a dependent deduction and (2) the income of such an FTS is treated differently from the income of other family members.

### 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.

### 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.

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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 GUESTS [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.

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.

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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.

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 and HUD-50058 IB, pp. 13-14].

#### **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.

### 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**

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### **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.

### **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.

### **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

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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 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.

### **3-I.X      FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR § 5.230]**

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.

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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)].

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## **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



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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.

### 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 widest 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

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- iii. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
  - 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

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accordance with the rules, standards, and agreements governing occupancy at the time of development of the project if certain requirements are met.

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

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

### **3-II.G OCCUPANCY STANDARDS**

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.

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## 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.

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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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## **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
- 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 [24 CFR 960.204]**

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)].

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).

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### **GHURA Policy**

GHURA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 5 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.
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

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

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



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### **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 years, the family will be denied admission. In cases where there is a criminal conviction, 5 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)].

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.

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. 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 years. A conviction for such activity will be given more weight than an arrest or an eviction.

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.

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GHURA may deny eligibility for longer than 5 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 years
- Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five 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 PHA 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 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.

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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.

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)].

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.

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*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.

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**

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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 shows 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 cases involving methamphetamine arrest, GHURA will not consider the circumstances. 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
- The effects that denial of admission may have on other members of the family who were not involved in the action or failure
- 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, the family's recent history and the likelihood of favorable conduct in the future
- 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, 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 may require the applicant to submit evidence of the

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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.

### **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.

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

The Violence against Women Act of 2005 (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.

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

### **Notification**

#### **GHURA Policy**

GHURA acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under GHURA's policies. Therefore, if GHURA makes a determination to deny admission to an applicant family, GHURA will include in its notice of denial and as a separate notice during the application process information about the protection against denial provided by VAWA in accordance with section Chapter 9 of this Administrative Plan and will request that an applicant wishing to claim this protection notify GHURA within 15 business days.

### **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, or stalking, GHURA will request in writing that the applicant provide documentation supporting the claim in accordance with Chapter 9 of this Administrative 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



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is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

### **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 Section 4-I.H.

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 15 business days to dispute the accuracy and relevance of the information. If the family does not contact GHURA to dispute the information within that 15 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.

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## 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 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.

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## **PART I: THE TENANT SELECTION PLAN**

### **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**

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- 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

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

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**

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.

### **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.

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Once all U.S. 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**

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. Documentation will be maintained by GHURA as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that GHURA does not have to ask higher placed families each time targeted selections are made.

#### **4-I.E            PREFERENCES**

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.



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## 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.

#### **GHURA Policy**

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

Payment of rent and utilities

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

### **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

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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.

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.

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## **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.

## **PART II: MARKETING**

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

- 24 CFR § 108.40 (Affirmative fair housing marketing compliance reviews)
- 24 CFR Part 110 – Fair Housing Poster
- 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.

## **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)

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## **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, 891.610, 891.750 (Selection and admission off tenants)
- 24 CFR, Part 1 – Nondiscrimination in Federally Assisted Programs

## **4-III.B TAKING APPLICATIONS FOR OCCUPANCY**

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.

Families may obtain application forms from GHURA's office during normal business hours. Families may also apply online.

Completed applications must be returned to GHURA by mail, by fax, or submitted in person or online during normal business hours. 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.

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## 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).

## PLACEMENT ON THE WAITING LIST

GHURA must review each complete application received and make a preliminary assessment of the family's eligibility. 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)]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants. 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 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**

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GHURA will send written notification of the preliminary eligibility determination within twenty (20) 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) for which they qualify, and the date and time their complete application is received by GHURA.

## **4-III.C 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.D CREATING AND MAINTAINING WAITING LISTS [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.

Receiving the application. Upon receiving the application, GHURA must indicate on the application the date and time received.

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.

Providing Notice. GHURA must provide notice of closing of the waiting list.

## **OPENING AND CLOSING THE WAITING LIST**

Closing waiting lists:

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A PHA is permitted to close the waiting list if it has an adequate pool of applicant families to fill the unit vacancies.

## **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.

## **Opening waiting lists:**

If the waiting list has been closed and GHURA agrees to 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 at least 10 business days prior to the date applications will first be accepted.

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.

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.

## **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.E PLACING FAMILIES WITH DISABLED FAMILY MEMBERS [HUD Occupancy Handbook Chapter 4, 4-17]**

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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 have 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, GHUR A will then offer the unit to the next qualified applicant on the waiting list.

When there are no current tenant or a qualified applicant which requires the features of an available accessible unit, GHURA will offer the unit to another tenant or applicant in a manner consistent with the tenant selection policy.

### **4-III.F 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.G UPDATING WAITING LIST INFORMATION**

HUD requires GHURA to establish policies to use when removing applicant names from the waiting list.



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## **Purging 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, GHURA 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.

## **4-III.H REMOVING NAMES FROM THE WAITING LIST**

### **Removal from the Waiting List**

#### **GHURA Policy**

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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); the family will be removed from the waiting list.

### **4-III.I REINSTATING APPLICANTS TO 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 (see Chapter 9).

### **4-III.J 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.

## **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**

When a family has been selected from the waiting list, GHURA must notify the family.

#### **GHURA Policy**

GHURA will notify the family by certified 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

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- Who is required to attend the interview?
- Documents that must be provided at the interview to document the legal identity of household members, 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.

### 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.

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Pending disclosure and documentation of social security numbers, GHURA will allow the family to retain its place on the waiting list for **60 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).

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

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determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).

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.

### 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 Housing Program (Guma Trankilidat) Multifamily Housing Program.

### 4-IV.E IMPLEMENTING SCREENING REVIEWS

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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

## **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

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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.



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## 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.

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## 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.

### 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.

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Summary of Income Included and Excluded by Person	
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.

### ***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.

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### **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.

### **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.

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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.

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.

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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.

#### **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)].

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### **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, the 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*.)

### ***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:



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- 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)].

### ***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].

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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.

### ***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]**

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.

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- 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)].
- 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.

### ***Lifetime Limitation***

The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from

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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-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).

### **5-I.F BUSINESS INCOME [24 CFR 5.609(b)(2)]**

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.

### **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.

### **Capital Indebtedness**

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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.

## **5-I.G ASSETS [24 CFR § 5.609 (b)(3)]**

### **Overview**

There is no asset limitation for participation 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

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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.

### 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*

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.

#### **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.

#### *Lump-Sum Receipts*

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. However, such lump-sum receipts are 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) [RHIIP FAQs]. (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.)

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### ***Imputing Income from Assets [24 CFR § 5.609(b) (3)]***

When net family assets are \$5,000 or less, the PHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of \$5,000, the PHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.

### ***Determining Actual Anticipated Income from Assets***

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.

### ***Jointly Owned Assets***

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.”

### **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 prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, GHURA will prorate 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 count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.



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### ***Minimum Threshold***

The *HVC Guidebook* permits the PHA to set a threshold below which assets disposed of for less than fair market value will not be counted.

### **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.

### ***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.

### ***Types of Assets***



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### ***Checking and Savings Accounts***

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 account, GHURA will use the average monthly balance for the last six months.

In determining the value of a savings account, GHURA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, the GHURA will multiply the value of the account by the current rate of interest paid on the account.

### ***Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds***

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.

#### **GHURA Policy**

In determining the market value of an investment account, GHURA will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), GHURA will calculate asset income based on the earnings for the most recent reporting period.

### ***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)]

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- 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.

### ***Trusts***

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).

### ***Revocable Trusts***

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

### ***Nonrevocable Trusts***

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR § 5.603(b)]. (Periodic payments are covered in Section 5-I.H. Lump-sum receipts are discussed earlier in this section.)

### ***Retirement Accounts***

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### *Company Retirement/Pension Accounts*

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the PHA must know whether the money is accessible before retirement.

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset.

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate, except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see Section 5-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

### *IRA, Keogh, and Similar Retirement Savings Accounts*

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty.

### ***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***

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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.

### 5-I.H PERIODIC PAYMENTS

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 [CFR § 5.609(b) (4)]. 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 [FR Notice 11/24/08].

#### **Treatment of Overpayment Deductions from Social Security Benefits**

The PHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2010-3].

#### **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].

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## **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.

- 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].

## **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.

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### ***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)].

### ***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.

#### **GHURA Policy**

GHURA will count court-awarded amounts for alimony and child support unless GHURA verifies that: (1) the payments are not being made, and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.

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Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

### **Regular Contributions or Gifts**

The PHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family [24 CFR § 5.609(b) (7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR § 5.609(c) (9)].

### **GHURA Policy**

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by GHURA. For contributions that may vary from month to month (e.g., utility payments), GHURA will include an average amount based upon past history.

### **5-1.L STUDENT FINANCIAL ASSISTANCE [24 CFR § 5.609 (b)(9)]**

In 2005, Congress passed a law (for Section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

### **Student Financial Assistance Included in Annual Income [24 CFR § 5.609(b) (9) and FR 4/10/06]**

The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the program, the project-based certificate program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age **OR** they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of tuition received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, the PHA will use the definitions of *dependent*, *child*, *institution of higher education*, and *parents* in Section 3-II.E, along with the following definitions [FR 4/10/06, pp. 18148-18150]:



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- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
- *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an assisted unit.
- *Tuition* will have the meaning given this term by the institution of higher education in which the student is enrolled.

### **Student Financial Assistance Excluded from Annual Income [24 CFR § 5.609(c)(6)]**

Any student financial assistance not subject to inclusion under 24 CFR 5.609(b)(9) is fully excluded from annual income under 24 CFR § 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving Section 8 assistance
- Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of *institution of higher education*
- Students who are over 23 **AND** have at least one dependent child
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

### **5-I.M            ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME**

Other exclusions contained in 24 CFR § 5.609(c) that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR § 5.609(c)(4)]
- 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(c)(8)(iii)]
- 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(c)(8)(ii)]
- 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(c)(10)]
- Adoption assistance payments in excess of \$480 per adopted child [24 CFR § 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR § 5.609(c)(15)]
- 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 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))



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- (b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. § 5044(g), 5058)
- (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. § 1626(c))
- (d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. § 459e)
- (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. § 8624(f))
- (f) 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).)
- (g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (h) 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)
- (i) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. § 3056(f))
- (j) 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.)
- (k) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. § 1721)
- (l) 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))
- (m) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. §32(j))
- (n) 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)
- (o) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. § 12637(d))
- (p) 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)
- (q) 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)
- (r) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. § 2931)

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## 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;
- (2) \$400 for any elderly family or disabled family;
- (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 nonschool 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.

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## 5-II.B DEPENDENT DEDUCTION

A deduction of \$480 is taken for each dependent [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 \$400 is taken for any elderly or disabled family [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].

## 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 *medical expenses* at 24 CFR § 5.603(b) to mean “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.”

### **GHURA Policy**

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used to determine the costs that qualify as medical expenses.

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals	Substance abuse treatment programs
Surgery and medical procedures that are necessary, legal, noncosmetic	Psychiatric treatment
Services of medical facilities	Ambulance services and some costs of transportation related to medical expenses
Hospitalization, long-term care, and in-home nursing services	The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial
Prescription medicines and insulin, but <u>not</u> nonprescription medicines even if recommended by a doctor	

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Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	teeth) Cost and continuing care of necessary service animals Medical insurance premiums or the cost of a health maintenance organization (HMO)
<b>Note:</b> This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered <u>only to the extent they are not reimbursed by insurance or some other source.</u>	

### 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 *Guidebook* as follows: “Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a

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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 advises PHAs to further define and describe auxiliary apparatus.

### ***Eligible Auxiliary Apparatus***

#### **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.

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

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.

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### **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.

### **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***

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### **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.

### ***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)].



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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.

### **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



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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.

## **PART III: OVERVIEW OF RENT AND SUBSIDY CALCULATIONS**

### **5-III.A OVERVIEW OF RENT AND SUBSIDY CALCULATIONS**

#### **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.

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## ***Minimum Rent [24 CFR § 5.630]***

### **GHURA Policy**

The minimum rent for the Guam Elderly Housing (Guma Trankilidat) Multifamily Housing Program is \$25.

## **5-III.B FINANCIAL HARDHSIPS AFFECTING MINIMUM RENT [24 CFR § 5.630]**

### 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.

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- (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).

- (5) The family has experienced other circumstances determined by the PHA.

### **GHURA Policy**

Medical reasons (ex: Off- island care or high cost medical care or long term treatment)

## **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.		Hardship exemption granted.	

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TTP = \$50	TTP = \$25
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### **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.

### ***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 10 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:

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- (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.

### **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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## EXHIBIT 5-1: ANNUAL INCOME INCLUSIONS

### 24 CFR § 5.609

*(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 (c) of this section.
- (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

*(b) Annual income includes, but is not limited to:*

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from 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;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

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(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31<sup>1</sup>; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

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<sup>1</sup> Text of 45 CFR 260.31 follows.

(9) For Section 8 programs only and as provided in 24 CFR § 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, “financial assistance” does not include loan proceeds for the purpose of determining income.

<b>HHS DEFINITION OF "ASSISTANCE"</b>
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**45 CFR: GENERAL TEMPORARY  
ASSISTANCE FOR NEEDY FAMILIES**

**260.31 What does the term “assistance” mean?**

(a)(1) The term “assistance” includes cash, payments, vouchers, and other forms of benefits designed to meet a family’s ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

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(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) [The definition of “assistance”] excludes: (1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to Section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.



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### EXHIBIT 5-2: ANNUAL INCOME EXCLUSIONS<sup>2</sup>

#### **24 CFR § 5.609**

*(c) Annual income does not include the following:*

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
- (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);
- (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (5) Income of a live-in aide, as defined in Sec. 5.403;
- (6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

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<sup>2</sup> FR Notice 11/24/08 makes note of pending revisions to this regulation, namely the exclusion of any deferred disability benefits received in lump-sum or prospective monthly amounts from the Department of Veterans Affairs (VA). At the time of publication, 24 CFR 5.609 had yet to be updated.

- (8) (i) Amounts received under training programs funded by HUD;
- (ii) 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);
- (iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
- (iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 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;
- (v) Incremental earnings and benefits resulting to any family member 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. 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;
- (9) Temporary, nonrecurring or sporadic income (including gifts);

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<p>(10) 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;</p> <p>(11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);</p> <p>(12) Adoption assistance payments in excess of \$480 per adopted child;</p> <p>(13) [Reserved]</p> <p>(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.</p> <p>(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;</p> <p>(16) 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; or</p> <p>(17) Amounts specifically excluded by any other Federal statute 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(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]</p>	<table><tr><th>for Purposes of Determining Eligibility or Benefits</th></tr><tr><td>a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));</td></tr><tr><td>b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);</td></tr><tr><td>c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));</td></tr><tr><td>d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);</td></tr><tr><td>e) Payments or allowances made under the Department of Health and Human Services’ Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));</td></tr><tr><td>f) 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);</td></tr><tr><td>g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L- 94-540, 90 Stat. 2503-04);</td></tr><tr><td>h) The first \$2000 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 \$2000 per year of income received by individual Indians from funds derived from interests held in</td></tr></table>	for Purposes of Determining Eligibility or Benefits	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) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);	c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));	d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);	e) Payments or allowances made under the Department of Health and Human Services’ Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));	f) 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);	g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L- 94-540, 90 Stat. 2503-04);	h) The first \$2000 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 \$2000 per year of income received by individual Indians from funds derived from interests held in
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Sources of Income Excluded by Federal Statute from Consideration as Income

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such trust or restricted lands (25 U.S.C. 1407-1408);

i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));

k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

m) 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. 9858q);

n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o) 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);

p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

q) 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);

r) 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); and

s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

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## EXHIBIT 5-3: TREATMENT OF FAMILY ASSETS

### 24 CFR § 5.603(b) Net Family Assets

(1) 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.

(2) 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 fund 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 Sec. 5.609.

(3) 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.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

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### EXHIBIT 5-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

#### **24 CFR § 5.617 Self-sufficiency incentives for persons with disabilities—Disallowance of increase in annual income.**

*(a) Applicable programs.* The disallowance of increase in annual income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

*(b) Definitions.* The following definitions apply for purposes of this section.

*Disallowance.* Exclusion from annual income.

*Previously unemployed* includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

*Qualified family.* A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least \$500.

*(c) Disallowance of increase in annual income—*

(1) Initial twelve month exclusion. During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

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(2) Second twelve month exclusion and phase-in. During the second cumulative twelve month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) Maximum four year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) is limited to a lifetime 48 month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum of twelve months for disallowance under paragraph (c)(2), during the 48 month period starting from the initial exclusion under paragraph (c)(1) of this section.

*(d) Inapplicability to admission.* The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).



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### EXHIBIT 5-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

#### 24 CFR § 5.615

#### **Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.**

**(a) Applicability.** This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

**(b) Definitions.** The following definitions apply for purposes of this section:

*Covered families.* Families 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.

*Economic self-sufficiency program.* See definition at Sec. 5.603.

*Imputed welfare income.* The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

*Specified welfare benefit reduction.*

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

**(c) Imputed welfare income.**

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

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(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

*(d) Review of PHA decision.*

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of

such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

*(e) PHA relation with welfare agency.*

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's



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determination of a specified welfare benefits  
reduction.

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## 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.

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## **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)

### **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

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- Move-in inspection report signed by GHURA and the tenant
- A copy of the House Rules
- 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.

## **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**

GHURA collects security deposit at the time of the initial lease execution. The purpose of the security deposit is to provide GHURA with financial protection when a tenant moves out of the unit and fails to fulfill their obligation under the lease.

GHURA places the security deposit into an interest-bearing account.

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GHURA does not change the amount of security deposit established at move-in when a tenant's rent changes during occupancy.

GHURA may collect the security deposit in installments.

The security deposit is refundable.

An applicant may be rejected if he/she does not have sufficient funds to pay the security deposit.

A new security deposit will be required if a tenant conducts a unit transfer on the property.

### **GHURA Policy**

GHURA will collect a security deposit equal to the amount of one month (or 30% of the TTP/ Total Tenant Payment) at the time of initial move-in. The collection of the security deposit will be documented with a memo-to-fiscal forwarded to the Fiscal Division for proper data input into the Tenant Accounts Receivable (TAR). A copy of the security deposit coupon will be kept on file.

## **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 CHARGES FOR LATE PAYMENT OF RENT**

GHURA assesses a late fee of \$5 for rent received after the 5th of the month.

GHURA will not evict a tenant for failure to pay late charges.

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GHURA may deduct unpaid late charges from the tenant's security deposit at the time of move-out.

### **6-III.E            PET DEPOSITS**

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.

GHURA's pet deposit for the Guma Trankilidat is \$300, the maximum amount allowed for RHS 515 with Section 8 programs.

### **6-III.F            OTHER CHARGES DURING OCCUPANCY**

#### **A. 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.

#### **B. 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.

#### **C. 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.



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GHURA may require tenant's 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.

## **PART IV: THE LEASING PROCESS**

### **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**

GHURA conducts move-in inspections as an opportunity for families to familiarize his/her self with the project and the unit. The move-in inspections documents the unit's current condition, and assures tenants that the unit is in livable condition, free of damages. GHURA uses this opportunity to discuss with the family the house rules and operation of the appliances and equipment in the unit.

Move-in and move-out inspections are not to be confused with annual unit inspection performed by GHURA or Uniformed Physical Standards Inspections performed by HUD (or their contractors).

Move-in inspections must be signed jointly by GHURA and the tenant.

For move-out inspections, GHURA uses its discretion to distinguish between wear and tear and versus damage.

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## **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 PIH 2010-19 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**

#### **Consent Forms**

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the 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). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

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## **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.

## **7-I.B OVERVIEW OF VERIFICATION REQUIREMENTS**

### **HUD's Verification Hierarchy [Notice PIH 2010-19]**

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

#### **GHURA Policy**

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

- Up-front Income Verification (UIV) using HUD's Enterprise Income

Verification (EIV) system

- Up-front Income Verification (UIV) using a non-HUD system
- Written Third-Party Verification (may be provided by applicant or participant)
- Written Third-party Verification Form
- Oral Third-party Verification
- Self-Certification

Each of the verification methods is discussed in subsequent sections below.

### **Requirements for Acceptable Documents**

#### **GHURA Policy**

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 days of the date they are provided to GHURA. The documents must not be damaged, altered or in any way illegible.

Print-outs from Web pages are considered original documents.

The GHURA staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

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

### **File Documentation**

GHURA 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 GHURA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

#### **GHURA Policy**

GHURA will document, in the family file, the following: Reported family annual income  
Value of assets

Expenses related to deductions from annual income

Other factors influencing the adjusted income or income-based rent determination

When GHURA is unable to obtain 3rd party verification, GHURA will document in the family file the reason that third-party verification was not available [24 CFR § 960.259(c) (1); Notice PIH 2010-19].

### **7-I.C 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. 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 GHURA 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.

See Chapter 5 for GHURA's policy on the use of UIV/EIV to project annual income.

#### **Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)**

HUD's EIV system contains data showing earned income, unemployment benefits, Social

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Security benefits and SSI benefits for participant families. HUD requires the PHA to use the EIV system in its entirety. The following policies apply to the use of HUD's EIV system.

### ***EIV Income Reports***

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

#### **GHURA Policy**

GHURA will obtain income reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information will be resolved.

Income reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income reports will be retained in participant files with the applicable annual or interim reexamination documents.

When GHURA determines through income 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.

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

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

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2010-3].

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**

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GHURA will identify participants whose identity verification has failed by reviewing

EIV's *Identity Verification Report* on a monthly basis.

GHURA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When GHURA determines that discrepancies exist due to GHURA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

### **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.

### **7-1.D            THIRD-PARTY WRITTEN AND ORAL VERIFICATION**

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to GHURA by the family. If written third-party verification is not available, GHURA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

#### **Written Third-Party Verification [Notice PIH 2010-19]**

Written third-party verification documents must be original and authentic and 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.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs for

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determining annual income from wages.

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**

Third-party documents provided by the family must be dated within 60 days of the GHURA request date.

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.

As verification of earned income, GHURA will request the 6 most recent paystubs.

### **Written Third-Party Verification Form**

When upfront verification is not available and the family is unable to provide written third-party documents, the PHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

A written third-party verification form is mandatory when there is an unreported source of income or a substantial difference in reported income (\$2,400 annually or more) and there is no UIV or tenant-provided documentation to support the income discrepancy.

PHAs may mail, fax, or e-mail third-party written verification form requests to third-party sources.

### **GHURA Policy**

GHURA will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by GHURA.

### **Oral Third-Party Verification [Notice PIH 2010-19]**

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.



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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 should 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.

### **GHURA Policy**

In collecting third-party oral verification, GHURA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

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

### **When Third-Party Verification is Not Required [Notice PIH 2010-19]**

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.

### ***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.

### ***Imputed Assets***

HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value.

### **GHURA Policy**

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

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Self-certification, or “tenant declaration,” is used as a last resort when the PHA is unable to obtain third-party verification.

When GHURA relies on a tenant declaration for verification of income, assets, or expenses, the family’s file must be documented to explain why third-party verification was not available.

## **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 must be signed in the presence of a GHURA representative or GHURA notary public.

## **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) U.S. passport Employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID School records

If a document submitted by a family is illegible or otherwise questionable, more than one of

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these documents may be required. GHURA will review documents from other countries on a case by case basis to determine their validity.

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 in the presence of a GHURA representative or GHURA notary public.

Legal identity will be verified on an as needed basis.

### **7-II.B            SOCIAL SECURITY NUMBERS [24 CFR § 5.216 and Notice PIH 2010-3]**

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 program participants 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 SSA-issued document, 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, along with other identifying information of the individual

Such other evidence of the SSN as HUD may prescribe in administrative instructions

GHURA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document, if the original document has been altered, mutilated, or is not legible, or if the document appears to be forged.

#### **GHURA Policy**

GHURA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to GHURA within 90 days.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. The PHA must grant one additional 90-day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

#### **GHURA Policy**

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GHURA will grant one additional 90-day extension if needed for reasons 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 the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, GHURA will terminate the individual's assistance.

When the participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant 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 participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant 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 participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the PHA is awaiting documentation of the SSN; the child will be counted as part of the assisted household.

### **GHURA Policy**

GHURA will grant one additional 90-day extension if needed for reasons 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.

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 participants 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

### **GHURA Policy**

Once an individual's status is classified as "verified" in HUD's EIV system, GHURA will retain copies of documentation accepted as evidence of social security numbers.

## **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.

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### **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 document the divorce, or separation.

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

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

If no court document is available, self-certification will be accepted.

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## **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 self-certify.

## **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 7-III.J) 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).

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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.

#### **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.

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### 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 such as a passport.

#### **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.



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For family members under the age of 62 who claim to be eligible immigrants, GHURA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

### 7-II.H VERIFICATION OF PREFERENCE STATUS

GHURA must verify any preferences claimed by an applicant.

## 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 VERIFICATION OF PREFERENCE STATUS

#### 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.

### 7-III.B BUSINESS AND SELF-EMPLOYMENT INCOME

#### **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.

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.

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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.

### 7-III.C PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

#### Social Security/SSI Benefits

##### **GHURA Policy**

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

To verify the SS/SSI benefits of participants, GHURA will obtain information about social security/SSI benefits through the HUD EIV System, and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, GHURA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) GHURA will help the participant request a benefit verification letter from SSA's Web site at [www.socialsecurity.gov](http://www.socialsecurity.gov) or ask the family to request one by calling SSA at 1-800-772-1213. Once the participant has received the benefit verification letter they will be required to provide it to GHURA.

### 7-III.D ALIMONY OR CHILD SUPPORT

##### **GHURA Policy**

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

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

Copy of the receipts and/or payment stubs for the 60 days prior to GHURA's request

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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 and of the likelihood of support payments being received in the future, or that support payments are not being received.

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

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

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

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

### 7-III.E ASSETS AND INCOME FROM ASSETS

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

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The 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.

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## 7-III.F 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.

## 7-III.G 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.

## 7-III.H INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 5, Part I.

The PHA must obtain verification for income exclusions only if, without verification, the PHA

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would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the PHA will confirm that PHA records verify the child's age but will not require third-party verification of the amount earned. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

### **GHURA Policy**

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

### **7-III.I           ZERO ANNUAL INCOME STATUS**

### **GHURA Policy**

GHURA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc., are not being received by families claiming to have zero annual income.

### **7-III.J           STUDENT FINANCIAL ASSISTANCE**

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving assistance [24 CFR § 5.609(b) (9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving assistance, the full amount of student financial assistance is excluded from annual income [24 CFR § 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education. Excluded amounts are verified only if, without verification, the PHA would not be able to determine whether or to what extent the income is to be excluded (see Section 7-III.H).

### **GHURA Policy**

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), GHURA will request written third-party verification of both the source and the amount. 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.

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In addition, GHURA will request written verification of the student's tuition amount. If GHURA is unable to obtain third-party written verification of the requested information, GHURA will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

### **7-III.K 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-II.E). 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.

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### **Dependent Deduction**

See Chapter 6 (6-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 for a definition of elderly and disabled families and Chapter 6 (6-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 MEDICAL EXPENSE DEDUCTION**

Policies related to medical expenses are found in 5-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

### **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.

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.

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.

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- Costs incurred in past years are counted only once.

### **Eligible Household**

The medical expense deduction is permitted only for households in which the head, spouse, or 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 medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for GHURA's policy on what counts as a medical expense.

### **Unreimbursed Expenses**

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

#### **GHURA Policy**

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

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

#### **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**

GHURA will accept written third-party documents provided by the family.

If family-provided documents are not available, GHURA will provide a third-party



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verification form directly to the care provider requesting the needed information.

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.

### *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.

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### **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.

### **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.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

### **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.

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### **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.

### **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.

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### **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.

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### EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS

**All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.

- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

#### **Elderly Noncitizens**

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.

#### **All other Noncitizens**

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

Form I-551 Alien Registration Receipt Card (for permanent resident aliens)

Form I-94 Arrival-Departure Record annotated with one of the following:

- “Admitted as a Refugee Pursuant to Section 207”
- “Section 208” or “Asylum”

“Section 243(h)” or “Deportation stayed by Attorney General”

- “Paroled Pursuant to Section 221 (d)(5) of the USCIS”

Form I-94 Arrival-Departure Record with no annotation accompanied by:

- A final court decision granting asylum (but only if no appeal is taken);

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);

A court decision granting withholding of deportation; or

A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.

Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.

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

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 *Federal Register*.

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## 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 process for conducting annual Recertifications.

**Part II: Interim Recertification.** This part details the requirements for families to report changes in family income and composition between annual Recertifications.

**Part III: Unit Transfers.** This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim Recertifications.

**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 plan, apply to both Annual and Interim Recertifications.

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## **PART I: ANNUAL RECERTIFICATIONS [HUD Occ. Guidebook 4350.3]**

### **8-1.A OVERVIEW**

GHURA 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.

### **8-1.B 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.



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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 9) 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.

### 8-I.C 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 9).

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

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- Social security numbers
- A person's disability status
- Citizenship or immigration status

### 8-I.D EFFECTIVE DATES

The PHA must establish policies concerning the effective date of changes that result from an annual Recertification [HUD Occ. Handbook 4350.3].

#### **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 and HAP contract.
- 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.

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## **PART II: INTERIM RECERTIFICATIONS [HUD Occ. Guidebook 4350.3]**

### **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 GHURA 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. GHURA must complete the interim Recertification within a reasonable time after the family's request.

This part includes HUD and GHURA policies describing what changes families are required to report, what changes families may choose to report, and how GHURA will process both GHURA- and family-initiated interim Recertifications.

### **8-II.B CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

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 conduct interim Recertifications to account for any changes in household composition that occur between annual Recertifications.

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 an individual meets GHURA's eligibility criteria and documentation requirements, GHURA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be required to move.

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.

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GHURA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

### **Departure of a Family or Household Member**

Families must promptly notify the PHA if any family member no longer lives in the unit. GHURA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in 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.

## **8-II.C CHANGES AFFECTING INCOME OR EXPENSES**

Interim Recertifications can be scheduled either because GHURA 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.

### **GHURA-Initiated Interim Recertifications**

GHURA-initiated interim Recertifications are those that are scheduled based on circumstances or criteria defined by GHURA. They are not scheduled because of changes reported by the family.

### **GHURA Policy**

GHURA will conduct interim Recertifications in each of the following instances:

- For families receiving the Earned Income Disallowance (EID), GHURA will conduct an interim Recertification at the start and conclusion of the second 12 month exclusion period (50 percent phase-in period).
- 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.

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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.

### **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.

### ***Required Reporting***

HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

#### **GHURA Policy**

Families are required to report all increases in earned income, including new employment, within 10 business days of the date the change takes effect.

GHURA will conduct interim Recertifications for increases in family annual income that meet or exceed \$2,400 per year, or for families that qualify for the earned income disallowance (EID), and only when the EID family's share of rent will change as a result of the increase. In all other cases, GHURA will note the information in the tenant file, but will not conduct an interim Recertification.

### ***Optional Reporting***

The family may request an interim Recertification any time the family has experienced a change in circumstances since the last determination. The PHA must process the request if the family reports a change that will result in a reduced family income.

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced.

## **8-II.D 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.

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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.

### Effective Dates

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.

### GHURA Policy

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30 day notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 10.

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.

## **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 and owner of the changes. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a Recertification.

### **8-III.B CHANGES IN SUBSIDY STANDARDS AND UTILITY ALLOWANCES**

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in GHURA's calculations.

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Specific policies governing how subsidy standards and utility allowances are applied are discussed below.

### **Utility Allowances**

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the PHA's utility allowance schedule. Chapter 10 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, GHURA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

### **GHURA Policy**

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual Recertification after the allowance is adopted.

### **8-III.C NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT**

The PHA must notify the owner and family of any changes in the amount of the HAP payment. The notice must include the following information:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

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 family share of the rent and the housing assistance payment. The notice also will state the procedures for requesting an informal hearing.

### **8-III.D 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.

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## CHAPTER 9: 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.

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## **PART I:                    GROUNDS FOR TERMINATION OF ASSISTANCE**

### **9-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)

### **9-I.B                    APPLICABILITY**

GHURA's authority to remove or terminate assistance is established by the HUD-required lease provision entitled "Removal of Subsidy".

### **9-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.)

### **9-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:

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## **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.

## **9-1.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

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- 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.)

## 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.

## **PART II:                    TERMINATION OF TENANCY BY LESSEES**

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

- 24 CFR §§ 880.606, 884.215, 886.127, 886.327, 891.425, 891.625, and 891.765 Lease Requirements

### **9-II.B                    KEY REQUIREMENTS**

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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.

### **9-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 Admin Plan on guidelines for security deposits.

## **PART III: TERMINATION OF TENANCY BY OWNERS**

### **9-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

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- 24 CFR § 247.6 Eviction

## 9-III.B OVERVIEW

HUD established termination procedures for owner's 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.

## 9-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**

The PHA 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**

The PHA 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**

The PHA 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.

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However, if the family is otherwise eligible for continued program assistance, and the PHA 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 PHA determined the family to be noncompliant.

### **GHURA Policy**

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.

2. Extended absence or abandonment of the unit;

### ***Family Absence from the Unit***

The family may be absent from the unit for brief periods. The PHA 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.

**\*\*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.**

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.
5. Nonpayment of rent due under the lease.

## **9-III.D DRUG ABUSE AND OTHER CRIMINAL ACTIVITY**



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## **Methamphetamine Manufacture or Production [24 CFR § 982.553(b) (1)(ii)]**

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.

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## ***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.

## **9-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.

## **9-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.

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## **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**

### **9-IV.A PROCUDURES FOR ADDRESSING DISCREPANCIES AND ERRORS**

To promote income and rent integrity, owners must investigate and research discrepancies and possible errors. 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.

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## **9-IV.B PROCEDURES FOR ADDRESSING FRAUD**

If after following the steps outlined in 9-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.

## **9-IV.C DISCREPANCIES BASED ON INFORMATION FROM A STATE WAGE INFORMATION COLLECTION AGENCY (SWICA) OR FEDERAL AGENCY**

### **Requirements Regarding Wage Information Discrepancies**

1. Applicants and tenants who receive housing assistance that receive a discrepancy letter issued by HUD must submit the letter to GHURA.
2. Tenants may be denied assistance or have their level of assistance adjusted based on earnings information received from SWICAs or federal agencies.
3. GHURA may not deny, suspend, or reduce any benefits of a tenant until HUD or GHURA has verified the following:
  - a. The amount of the income/wages;
  - b. Whether the tenant had access to the income/wages
  - c. The period of when the tenant actually received the income/wages.

## **9-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.

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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.

### **9-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.

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## CHAPTER 10: 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.

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### **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**

#### **10-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).

#### **Utility Allowance Revisions**



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GHURA must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

GHURA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

### **PART III: INFORMAL REVIEWS AND HEARINGS**

#### **10-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.

#### **10-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
- Denying or withdrawing a unit offer
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

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
- A PHA determination not to grant approval of the tenancy

##### **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.

##### **Notice to the Applicant**

GHURA must give an applicant prompt notice of a decision denying assistance. The notice must

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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.

### **Scheduling an Informal Review**

#### **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 business days from the date of GHURA's denial of assistance.

GHURA must schedule and send written notice of the informal review within 10 business days of the family's request.

### **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.

### **Informal Review Decision**

The PHA must notify the applicant of GHURA'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

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and the family will be so notified.

### 10-III.C

### INFORMAL HEARINGS FOR PARTICIPANTS

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to GHURA's Multifamily Housing program and is currently assisted in the program. The purpose of the informal hearing is to consider whether GHURA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and GHURA policies.

GHURA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

#### **Decisions Subject to Informal Hearing**

Circumstances for which GHURA must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the GHURA utility allowance schedule
- A determination of the family unit size under GHURA's subsidy standards
- A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under GHURA's subsidy standards, or the determination to deny the family's request for exception from the standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under GHURA policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withholds supportive services, or proposes forfeiture of the family's escrow account

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by GHURA
- General policy issues or class grievances
- Establishment of the GHURA schedule of utility allowances for families in the program
- A GHURA determination not to approve an extension or suspension of a voucher term
- A GHURA determination not to approve a unit or tenancy
- A determination by GHURA to exercise or not to exercise any right or remedy against an owner under a HAP contract

#### **GHURA Policy**

GHURA will only offer participants the opportunity for an informal hearing when

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required to by the regulations.

### **Informal Hearing Procedures**

#### ***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.

#### ***Scheduling an Informal Hearing***

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

#### **GHURA Policy**

A request for an informal hearing 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 business days from the date of GHURA's decision or notice to terminate assistance.

GHURA must schedule and send written notice of the informal hearing to the family within 10 business days of the family's request.

The family 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

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date. At its discretion, GHURA may request documentation of the “good cause” prior to rescheduling the hearing.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact GHURA within 24 hours of the scheduled hearing date, excluding weekends and holidays. GHURA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

### ***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.

### ***Informal Hearing Officer***

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

### ***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

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person with a disability

### ***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.

### ***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.

### ***Hearing Officer's Decision***

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

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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.

**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 shows 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



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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.

### *PHA 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**

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.

### **10-III.D**

#### **HEARING AND APPEAL PROVISIONS FOR NONCITIZENS**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.



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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**

The notice of denial or termination of assistance for noncitizens must advise the family:

- 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 participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR § 5.514 and 24 CFR § 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.

### **USCIS 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 the 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.

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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.

### **Informal Hearing Procedures for Applicants**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the 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. See Section 16-III.C for a listing of positions that serve as informal hearing officers.

### ***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.

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 arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA, as may be agreed upon by the two parties.

### ***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.

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## **GHURA Policy**

GHURA will not provide a transcript of an audio taped hearing.

### ***Hearing Decision***

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the 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, the 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.

### **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

## **PART IV: OWNER OR FAMILY DEBTS TO THE PHA**

### **10-IV.A OVERVIEW**

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA. This part describes the PHA's policies for recovery of monies owed to the PHA by families or owners.

## **GHURA Policy**

When an action or inaction of an owner or participant results in the overpayment of housing assistance, GHURA holds the owner or participant liable to return any overpayments to GHURA.

GHURA will enter into repayment agreements in accordance with the policies contained

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in this part as a means to recover overpayments.

When an owner or participant refuses to repay monies owed to GHURA, GHURA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit
- Income tax set-off program

### 10-IV.B REPAYMENT POLICY

#### Owner Debts to GHURA

##### **GHURA Policy**

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, GHURA will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments GHURA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by GHURA.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, GHURA will pursue other modes of collection including garnishing the next HAP payment due to the owner on another contract.

#### Family Debts to GHURA

##### **GHURA Policy**

Any amount owed to GHURA by an HCV family must be repaid by the family. 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.

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 12 and pursue other modes of collection.

#### **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 may accept a down payment of the total amount owed.

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### ***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 per cent 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***

### **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.

### ***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 12.

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 12.

### ***No Offer of Repayment Agreement***

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## **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

## **PART V: RECORD KEEPING**

### **10-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.

### **10-V.B RECORD RETENTION**

During the term of each assisted lease, and for at least three years thereafter, GHURA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, GHURA must 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;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting GHURA budget and financial statements for the program;
- Records to document the basis for GHURA determination that rent to owner is a reasonable

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- rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents.

### 10-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 [24 CFR § 5.212 and Form-9886]**

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-9886, Authorization for 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.

#### **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



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the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR § 5.903(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.

### **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.



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## CHAPTER 11: REQUIRED 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.

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## **PART I: TENANT RENTAL ASSISTANCE CERTIFICATION SYSTEM (TRACS)**

### **11-I.A KEY REGULATIONS**

- 24 CFR Part 208, Electronic Transmission of Required Data for Certification and Subsidy Billing Procedures for Multifamily Subsidized Projects

### **11-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.

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## 11-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.

Vouchers submitted after this deadline date may risk late payment.

### B. Internet Applications [HUD Occupancy Handbook 4350.3]

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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.

### **11-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.

### **11-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.

### **11-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 HUD-50059-A for the following:

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1. Move-out
2. Termination of assistance
3. Unit transfer
4. Gross rent change.

## **11-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

## **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.

## **11-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)

## **11-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 assistance payments contract.

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5. The owner must comply with the assistance contract in order to continue receiving assistance payments from HUD.

### **11-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

### **11-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.

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## CHAPTER 12: PROGRAM INTEGRITY

### INTRODUCTION

GHURA is committed to ensuring that subsidy funds made available to GHURA are spent in accordance with HUD requirements.

This chapter covers HUD and GHURA 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 GHURA policies related to preventing, detecting, and investigating errors and program abuse.

**Part II: Corrective Measures and Penalties.** This part describes the corrective measures GHURA must and may take when errors or program abuses are found.

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## **PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE**

### **12-1.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 5.

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.

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

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or mislead.

## **12-I.B DETECTING ERRORS AND PROGRAM ABUSE**

In addition to taking steps to prevent errors and program abuse, GHURA 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 may 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.

## **12-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

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through file reviews and the verification process.

### **Consent to Release of Information**

GHURA may investigate possible instances of error or abuse using all available GHURA and public records. If necessary, GHURA 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.

### **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.

In the case of owner-caused errors or program abuse, GHURA will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) 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

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appeal the results through the informal review or hearing process, if applicable.

## **PART II: CORRECTIVE MEASURES AND PENALTIES**

### **12-II.A SUBSIDY UNDER- OR OVERPAYMENTS**

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family (\*\*lease amendment currently under review with HUD Field Office).

#### **Corrections**

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, GHURA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

#### **GHURA Policy**

Increases in the family share will be implemented only after the family has received 30 days 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.

### **12-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 subsidy 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 GHURA 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 10. If the family fails to repay the excess subsidy, GHURA will terminate the family's assistance in accordance with the

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policies in Chapter 9.

### **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].
- 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:

- Payment to the owner in excess of amounts authorized by GHURA for rent, security deposit, and additional services.
- 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, 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.

### **Penalties for Program Abuse**

In the case of program abuse caused by a family GHURA may, at its discretion, impose any of the following remedies.

- GHURA may require the family to repay excess subsidy amounts paid by GHURA, as described earlier in this section.
- GHURA 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 10 (for participants).
- GHURA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 9 respectively.
- GHURA may require the family to attend a conference, tenancy counseling or other

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corrective education.

- GHURA may refer the family for local or federal criminal prosecution.

### 12-II.C OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

#### Owner Reimbursement to GHURA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to GHURA any excess subsidy received. GHURA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, GHURA may allow the owner to pay in installments over a period of time.

#### GHURA Policy

In cases where the owner has received excess subsidy, GHURA will require the owner to repay the amount owed in accordance with the policies in Chapter 10.

#### Prohibited Owner Actions

An owner participating in the Multifamily Housing program must not:

- Make any false statement to the PHA [Title 18 U.S.C. § Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program including:

#### GHURA Policy

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by GHURA.
- Charging a security deposit other than that specified in the family's lease.
- Charging the family for services that are provided to unassisted tenants at no extra charge.
- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit.
- Knowingly accepting incorrect or excess housing assistance payments.
- Offering bribes or illegal gratuities to GHURA Board of Commissioners, employees, contractors, or other GHURA representatives.
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to GHURA.
- Residing in the unit with an assisted family.

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### Remedies and Penalties

When GHURA determines that the owner has committed program abuse, GHURA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 10.
- Terminate the Lease contract (See Chapter 9).

### 12-II.D PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of GHURA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a GHURA staff member that are considered errors or program abuse related to the Multifamily Housing program. Additional standards of conduct may be provided in the GHURA personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply Multifamily Housing Program rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

### Repayment to GHURA

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by GHURA staff.

### GHURA Reimbursement to Family or Owner

GHURA 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 Multifamily Housing program requirements for personal gain.
- Failing to comply with any Multifamily Housing program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner.
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, 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, owners, 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.



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- Misappropriating or misusing Multifamily Housing program funds.
- Destroying, concealing, removing, or inappropriately using any records related to the Multifamily Housing program.
- Committing any other corrupt or criminal act in connection with any federal housing program.

### 12-II.E CRIMINAL PROSECUTION

#### **GHURA Policy**

When GHURA determines that program abuse by an owner, 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 overpaid 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 Multifamily Housing program will be referred to the appropriate federal or local entity.

### 12-II.F FRAUD AND PROGRAM ABUSE RECOVERIES

GHURA may retain a portion of program fraud losses that GHURA recovers from a family or owner through litigation, court order, or a repayment agreement.

GHURA 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 GHURA 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 GHURA 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 GHURA related to the collection, these costs must be deducted from the amount retained by GHURA.

# ACRONYMS

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<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

<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

<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
<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

# GLOSSARY

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***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.

***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.

**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.



***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.

**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.

***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.

**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’s 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.

**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.

**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.

**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.

**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.



**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.

***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-

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

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).

**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)

**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**ead **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)

**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 Without Housing	4 = Conventional Public Housing (Owned by a Public Housing Agency)

(MAT 10 Section 2 Field 23)

Note: “Substandard” means physically substandard and does not include overcrowding.

**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/ Voucher date. The Effective date is the date the certification is to be



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”

**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.

**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.)
3. 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)

- 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 on 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.
- 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)

- Note: TRACS is not edit-checking information for this field at this time.**
- 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
- 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.)

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)

**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

**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)

**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

**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)

**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.

**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.

**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)

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 62** Previous Head  
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)

**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.

**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  
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)

**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.

(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)

**Item 80** Date Divested

Note: TRACS will not accept a negative value for this field.  
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

**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.

**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  
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)

**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)

**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)

**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.

**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)

**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.

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 REV-1; 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)

**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)

**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.

**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.

**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.

**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)

**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)
UA = Utility Allowance (Item 32)	MR = Sec. 236 Market Rent (Item 30)	UR = Utility Reimbursement (Item 110)
TR = Tenant Rent (Item 109)	TTP = Total Tenant Payment (Item 108)	AP = Assistance Payment (Item 111)

## 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

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

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-ratio 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

E) Calculate the **prorated AP**

12) \_\_\_\_\_ Enter GR ( Item 33 of HUD-50059)

13) \_\_\_\_\_ Subtract Line 11 from Line 12. This amount is the Prorated Assistance Payment. Enter in Item 111 of the HUD-50059

F) Calculate the **prorated TR** and any UR (if applicable)

14) \_\_\_\_\_ Enter the UA (Item 32 of HUD-50059)

15) \_\_\_\_\_ Subtract Line 14 from Line 11. This amount is the Prorated Tenant Rent. Enter in Item 109 of the HUD-50059

If Line 15 is zero and in Item 109 of HUD-50059, complete Line 16.

16) \_\_\_\_\_ If Line 14 is greater than Line 11, enter the difference in Item 110 (Utility Reimbursement) of the HUD-50059. Otherwise, leave blank.

**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  $\frac{2}{5}$
- 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.