



Tenant Selection Plan For:  
*Parkside Apartments*  
*Karabis Apartments*





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## INTRODUCTION

The Community Development Authority (CDA) has prepared this tenant selection plan in accordance with multifamily housing regulations for Section 8 New Construction subsidized housing. The CDA's tenant selection plan establishes a set of policies which are consistently applied to all residents and applicants regarding tenant selection and ongoing occupancy. The plan is designed to promote fairness and uniformity in tenant selection and to promote efficiencies in the processes used by the CDA in its operations of the covered developments. The procedures contained in this tenant selection plan have been established in compliance with the Department of Housing and Urban Development (HUD) Handbook 4350.3, as amended, and all other applicable federal statutes and regulations.

### Development Description and Designation

The CDA owns and manages both *Parkside Apartments* and *Karabis Apartments* as part of the CDA's "Triangle" site of low-income rental housing, which is located along South Park Street in Madison, Wisconsin. Parkside and Karabis are both Section 8 New Construction (project based) multifamily housing developments:

- *Parkside Apartments* is one development featuring:

*Parkside Highrise Apartments* is an eight story building consisting of 82 one-bedroom apartments and one (1) two-bedroom apartment. All 83 apartment units are designated by HUD to house low-income elderly families or families who have at least one family household member who is a person with disabilities.

*Parkside Townhouse Apartments* consist of eight (8) two-bedroom apartment townhomes and four (4) three-bedroom apartment townhomes for low-income families. The Parkside Townhouse units are not designated as housing exclusively for any particular family type or special needs population (i.e. elderly, disabled).

- *Karabis Apartments* is a one-story building consisting of two (2) one-bedroom apartments, 16 two-bedroom apartments, and two (2) three-bedroom apartments. All apartment units at Karabis Apartments are barrier free and have accessible features. Project eligibility at Karabis Apartments is limited to a specific population of disabled families or persons with disabilities, who have mobility impairments requiring the need for the accessible features of the units.

### Amending the Tenant Selection Plan

The CDA will review and update this tenant selection plan as needed to reflect changes in regulations, CDA operations, or when needed to ensure staff consistency in operations. The CDA will seek HUD approval on the tenant selection plan when required to do so.

This tenant selection plan will be made available for public viewing on the CDA's website and at the CDA's application office and property site office during regular hours of operation. When an applicant or resident family requests a printed copy of the CDA's tenant selection plan, the CDA will provide copies to them at a charge equal to the current rate published under local general ordinance, MGO 3.70.

## NONDISCRIMINATION REQUIREMENTS

Federal laws prohibit discrimination against certain protected classes and other groups of people. The CDA shall not discriminate against applicants or tenants on the basis of race, color, religion, sex, national origin, age, familial status, or disability.

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.

In addition, the CDA shall not discriminate against applicants or tenants on the basis of sexual orientation, gender identity, or marital status [HUD Final Rule published February 3, 2012, Executive Order 13988].

The CDA will not use any of these factors to take any of the actions listed below:

- Deny to any family the opportunity to apply to rent housing, or deny to any qualified applicant the opportunity to participate in the CDA's housing program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Subject anyone to sexual harassment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant toward or away from a particular area based on any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

Applicants or tenant families who believe that they have been subject to unlawful discrimination may notify the CDA either orally or in writing and the CDA will attempt to remedy discrimination complaints made against the CDA. The CDA will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

## EQUAL ACCESS UNDER SECTION 504

Section 504 of the Rehabilitation Act of 1973 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 affirmation obligations on the CDA to make their programs as a whole, accessible to persons with disabilities.

HUD's Section 504 regulations define an individual with a disability under 24 CFR 8.3. See Exhibit 1 of this tenant selection plan for the definition of a person with a disability under federal civil rights laws. A person who meets this definition, and who is otherwise qualified for program, service or activity, is covered under Section 504. Therefore, the CDA will not deny the person the right to participate or benefit from the housing program on the basis of their disability, and the CDA will make reasonable accommodations or modifications for individuals with a disability who qualify for the housing program (see Reasonable Accommodation section).

To be otherwise qualified means the individual meets the essential eligibility requirements, including requirement for tenancy in a housing program. Section 504 does not require that a person with a disability be accepted for a housing program without regard to eligibility requirements or his or her ability to meet standard, nondiscriminatory tenant selection and screening criteria. Rather, Section 504 requires that a person with a disability be evaluated using the same objective criteria that are applied to persons without disabilities. Applicants, with or without a disability, may be rejected if they have a record of adversely affecting others such as disturbing neighbors, destroying property, or failing to pay their rent on time.

Section 504 limits the CDA from requiring persons with disabilities to accept housing that is different or separate, and the CDA may not place an eligible person in a separate program for disabled persons simply because the person has a disability.

Federally assisted multifamily properties built after July 11, 1988 must be designed and constructed to be readily accessible to and usable by persons with disabilities under Uniform Federal Accessibility Standards (UFAS) [24 CFR 8.22]. Karabis Apartments was constructed in 1977 and both Parkside Highrise and Parkside Townhouse Apartments were constructed in 1978. 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 CDA's housing program.

The CDA will operate its housing programs so that they are, when viewed in their entirety, accessible to and usable by persons with disabilities [24 CFR 8.24]. Therefore, the CDA will evaluate as needed its current policies and practices to determine if they adversely affect the full participation of individuals with disabilities in the CDA's housing programs, activities, and services.

The CDA's tenant selection plan will be made available on the CDA's Web site and during hours of operation at the CDA's Triangle site office and the CDA's central office, which are both accessible facilities. The CDA will also designate the Triangle Site Property Manager as the 504 Coordinator for developments covered under this Tenant Selection Plan.

The CDA will take reasonable steps to ensure that persons with disabilities related to hearing and vision have reasonable access to the CDA's programs and services [24 CFR 8.6]:

- To meet the needs of persons with hearing impairments, the CDA will provide an e-mail address on all written communications.
- To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with CDA staff, one-on-one assistance will be provided upon request.
- Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

## LIMITED ENGLISH PROFICIENCY (LEP)

The CDA will take reasonable steps to ensure meaningful access to the information and services they provide for persons with Limited English Proficiency (LEP). Persons with LEP are CDA housing applicants and resident families, who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. In order to determine the level of access needed by LEP persons, the CDA will balance the following four factors:

- 1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the CDA's 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 the CDA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the CDA.

The CDA will utilize a language line for telephone interpreter services. When exercising the option to conduct remote briefings or hearings, however, the CDA will coordinate with a remote interpretation service, which, when available, uses video conferencing technology rather than voice-only interpretation.

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

The CDA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits. Where feasible and possible, the CDA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, will standardize documents, and encourage the use of qualified community volunteers.

The CDA will take the following steps when approaching the replacement of written text from one language into an equivalent written text in another language:

- Provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or
- If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the CDA may not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

If it is determined that the CDA serves very few LEP persons, and the CDA has very limited resources, the CDA will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

## REASONABLE ACCOMMODATIONS

### Overview

Under the Fair Housing Act, the CDA must ensure that persons with disabilities have full access to the PHA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the housing program.

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

*If you or any member of your family need an interpreter, materials in alternative formats, or if you require a reasonable accommodation due to a disability to apply for, receive, or continue to receive this service, activity, or program, please contact the CDA.*

### Definition

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 and administrative burden" for the CDA, 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.

### Request for an Accommodation

An applicant or participant must explain what type of accommodation is needed to provide the person with the disability full access to the CDA's programs and services. If the need for the accommodation is not readily apparent or known to the CDA, the family must explain the relationship between the requested accommodation and the disability. The CDA will encourage the family to make its request in writing using a reasonable accommodation request form, and the reasonable accommodation request form must be submitted within 10 business days. However, the CDA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted. If an informal request is made by the family, the family must explain what type of accommodation is needed to the CDA within 10 business days.

## Verification of Disability

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. See Exhibit 1, for the definition of a person with a disability under federal civil rights laws. Before providing an accommodation, the CDA 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 the CDA's programs and services.

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

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

All information related to a person's disability will be treated in accordance with the CDA's confidentiality policies. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- 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].
- The CDA must request only information that is necessary to evaluate the disability-related need for the accommodation. The CDA 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 the CDA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the CDA will dispose of it. In place of the information, the CDA 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 a Reasonable Accommodation**

Requests for accommodations will be assessed on a case-by-case basis. The CDA will approve a request for an accommodation if the following three conditions are met:

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

After a request for an accommodation is presented, the CDA will acknowledge receipt of the request in writing within 10 business days. Once all necessary documentation has been received, the CDA will process and make its final decision on whether to grant or deny the reasonable accommodation request within a reasonably prompt period of time, taking into account the need for verifications and an interactive process.

If the CDA 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 the CDA's operations or otherwise does not meet applicable criteria of reasonableness), the CDA will invite the family to discuss with the CDA whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the housing program and without imposing an undue financial or administrative burden.

If the CDA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, or if the family fails to participate in the discussion, the CDA will notify the family, in writing, of its determination within a reasonable amount of time from the date of the most recent discussion or communication with the family.

If the family disagrees with the CDA's decision to grant or deny a request for reasonable accommodation, the family may request an additional meeting with the CDA as an appeal of the decision through an informal hearing (if applicable).

### **Reasonable Accommodation in Denial of Admission**

If the family includes a person with disabilities, the CDA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8. If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, the CDA will ask for information to determine whether the behavior is related to the disability and whether an accommodation will alleviate the behavior. The family must make the reasonable accommodation request within 10 business days from the date of the denial notice. Upon the family's request, the CDA will determine whether alternative measures are appropriate as a reasonable accommodation. The CDA will only consider accommodations that can reasonably be expected to address the behavior, action, or non-action that is the basis of the proposed denial of admission.

If a request for an accommodation has been made, the CDA will consider disability-related circumstances when deciding to admit or deny an applicant. The CDA may provide an exception to CDA rules, policies, practices, or services, but the CDA will not lower or waive the essential eligibility requirements of the housing program, as doing so would alter the fundamental nature of the program. Even for a family that includes a person with disabilities, the CDA will not grant exceptions for the following:

- Individuals currently using controlled substances illegally.
- Individuals who abuse alcohol to the detriment of others.
- Convicted sexual offenders who are required to register under the law.
- Individuals who have been evicted from federally assisted housing due to drug-related criminal activity within the previous three years, unless a CDA approved rehabilitation program has been successfully completed.

Even with accommodation, the CDA is not required to admit the following:

- Individuals who are not “otherwise qualified” for the housing program.
- Individuals who would cause undue financial and administrative burdens, or would require a fundamental alteration in the nature of the housing program.
- Individuals whose request for accommodation is not necessary or will not be effective.

## PRIVACY ACT REQUIREMENTS [24 CFR 5.212]

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. It is the policy of the CDA to protect the privacy of individuals covered by the Federal Privacy Act of 1974, and to ensure the protection of such individuals' verification records maintained by the property.

Applicants and participants, including all adults in the household, are required to sign HUD-9887 and HUD-9887A consent forms. These forms incorporate the Federal Privacy Act Statement and describe how the information collected using the form may be used, and under what conditions HUD or the CDA may release the information collected.

All applicant and participant information will be kept in a secure location and access will be limited to authorized CDA staff. CDA 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.

Information may be released to appropriate federal, state, and local agencies when relevant, and to civil, criminal, or regulatory investigators and prosecutors. However, the information will not be otherwise disclosed or released unless that individual gives written authorization to do so.

This privacy policy in no way limits the CDA's ability to collect such information as it may need to determine eligibility, compute rent, or determine an applicant's suitability for tenancy.

Consistent with the intent of Section 504 of the Rehabilitation Act of 1973, any information obtained on disability status will be treated in a confidential manner.

## VIOLENCE AGAINST WOMEN ACT (VAWA)

### Overview

The Violence against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving assistance under the CDA's housing programs. If state or local laws provide greater protection for such victims, those laws take precedence over VAWA.

### Definitions [24 CFR 5.2003]

As used in VAWA:

- The term *actual and imminent threat*, refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.
- The term *affiliated individual* means, with respect to a person:
  - a spouse, parent, brother sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
  - any individual, tenant or lawful occupant living in the household of that individual.
- The term *bifurcate* means, to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.
- The term *dating violence* means, violence committed by a person:
  - who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - where the existence of such a relationship shall be determined based on consideration of the following factors
    - The length of the relationship;
    - The type of relationship; and
    - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes, felony or misdemeanor crimes of violence committed by:
  - a current or former spouse or intimate partner 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 or intimate partner,
- by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or
- by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

- The term *sexual assault* means, any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent.
- The term *stalking* means, engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - Fear for the person's individual safety or the safety of others; or
  - Suffer substantial emotional distress.

**Notification [24 CFR 5.2005(a)]**

The CDA will post information regarding VAWA on its Web site.

The VAWA information provided to applicants and tenants will consist of the notice of VAWA rights (Form HUD-5380) and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking, and Alternative Documentation. The CDA will include such information in all notices of denial of assistance, and the CDA will provide all tenants with information about VAWA at the time of admission and at annual reexamination. The CDA will also include such information in all lease termination notices.

Whenever the CDA has reason to suspect that providing information about VAWA to a tenant might place a victim at risk, the CDA will attempt to deliver the information by hand directly to the victim.

See Exhibit 3 (Form HUD-5380 and Form HUD-5382) of this tenant selection plan for additional resources related to VAWA.

**Documentation [24 CFR 5.2007]**

Any request for documentation of domestic violence, dating violence, sexual assault, or stalking will specify a deadline of 14 business days following receipt of the request, will describe the forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline. The CDA may, in its discretion, extend the deadline for 14 business days. Any extension granted by the PHA will be in writing. The individual may satisfy the CDA's request by providing any one of the following forms of documentation:

- (1) Completed Form HUD-5382 *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternative Documentation*;
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency that documents the incidents of domestic violence, dating violence, sexual assault, or stalking (i.e. police reports, protective orders, and restraining orders);
- (3) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “profession”) from who you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003; or
- (4) A statement signed by the victim certifying that the information provided is true and correct, and describes bona fide incident of actual domestic violence, dating violence, sexual assault, or stalking.

If presented with conflicting certification documents (two or more forms HUD-5382) from members of the same household, the CDA will attempt to determine which is the true victim by requiring each of them to provide, within 30 calendar days, third-party documentation in accordance with 24 CFR 5.2007 and by following any HUD guidance on how such determinations should be made.

The CDA has the discretion to provide benefits to an individual based solely on the individual’s statement or other corroborating evidence (i.e., without requiring formal documentation of abuse). If the CDA accepts an individual’s statement or other corroborating evidence of domestic violence, dating violence, sexual assault, or stalking, the CDA will document acceptance of the statement or evidence in the individual’s file.

In order to deny relief for protection under VAWA, the CDA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the CDA may allow, the CDA may deny relief for protection under VAWA.

### **Confidentiality [24 CFR 5.2007(b)]**

All information provided to the CDA regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that the CDA:

- (1) may not enter the information into any shared database;
- (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work; and
- (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is:
  - a. requested or consented to by the individual in writing;
  - b. required for use in an eviction proceeding; or

c. otherwise required by applicable law

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the CDA will inform the victim before disclosure occurs so that safety risks can be identified and addressed

## ELIGIBILITY REQUIREMENTS

### Overview

The CDA is responsible for ensuring that every individual and family admitted to the housing program meets all program and project eligibility requirements. 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 the CDA to confirm eligibility and determine the level of the family's assistance [24 CFR 880.601(b)]. To be eligible for multifamily housing developments covered under this tenant selection plan:

- The applicant family must:
  - Qualify as a family as defined by HUD and the CDA.
  - Have income at or below HUD-specified income limits.
  - Qualify on the basis of citizenship or the eligible immigrant status of family members.
  - Provide social security number information for family members as required.
  - Consent to the CDA's collection and use of family information as provided for in CDA-provided consent forms.
  - Qualify to reside in the specific development to which they have applied.
  - Not currently be receiving a duplicative subsidy.
- The CDA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the CDA.



## Definitions

### ***Family [24 CFR 5.403]***

To be eligible for admission, an applicant must qualify as a family. *Family* as defined by HUD, includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or
- a group of persons residing together. Such group includes, but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. The CDA has the discretion to determine if any other group of persons qualifies as a family.

*Gender Identity* means actual or perceived gender characteristics. *Sexual orientation* means homosexuality, heterosexuality, or bisexuality.

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.

Families who meet these criteria will not be awarded an extra bedroom. 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.

### ***Elderly Family [24 CFR 5.100, 5.403]***

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 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:

(i) Has a disability, as defined in 42 U.S.C. 423;

(A) 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

- (B) 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 a 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.
- (ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
- (A) Is expected to be of long-continued and indefinite duration,
- (B) Substantially impedes his or her ability to live independently, and
- (C) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
- (iii) 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
- (A) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (B) Is manifested before the person attains age 22;
- (C) Is likely to continue indefinitely;
- (D) Results in substantial functional limitation in three or more of the following areas of major life activity:
- a. Self-care,
  - b. Receptive and expressive language,
  - c. Learning,
  - d. Mobility,
  - e. Self-direction,
  - f. Capacity for independent living, and
  - g. Economic self-sufficiency; and
- (E) 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.

### ***Other Singles***

A family in which the head-of-household, spouse, or cohead are not disabled or elderly and the family's composition does not include any minor children.

### ***Household [24 CFR 5.100]***

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

### ***Family Break Up***

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 a development covered under this tenant selection plan, 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, the CDA will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, the CDA will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, the CDA will take into consideration the following factors:

- (1) the interest of any minor children, including custody arrangements;
- (2) the interest of any ill, elderly, or disabled family members;
- (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and provides documentation in accordance with the VAWA policies outlined in this tenant selection plan;
- (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.

### ***Caretakers for a Child***

If neither a parent nor a designated guardian remains in a household receiving assistance, the CDA will take the following actions:

If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 30 days. After the 30 days has elapsed, and if the caretaker qualifies for the program under the CDA's eligibility criteria, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the CDA will extend the caretaker's status as an eligible visitor.

At any time that custody or guardianship legally has been awarded to a caretaker, and the caretaker qualifies for the program under the CDA's eligibility criteria, the lease will be transferred to the caretaker, as head of household.

During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

### ***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 housing program, alone or in conjunction with a cohead or spouse. 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. A minor who is emancipated under state law may be designated as head of household.

### ***Spouse, Cohead, and Other Adult***

A family may have a spouse or cohead, but not both.

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

A *marriage partner* includes the partner in a "common law" marriage as defined by certain states. The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

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.

Minors who are emancipated under state 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.

### ***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.

### ***Joint Custody of Dependents***

Dependents who are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 50 percent or more of the time. When more than one applicant or assisted family (regardless of program) are 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, the CDA 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.

### ***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.

### ***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 express 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. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near CDA premises.

The family is responsible for the conduct of visitors and guests inside the unit, as well as anywhere on or near the premises of CDA property. A CDA dwelling unit is specifically for the resident and the individuals specifically listed on the lease. Residents may not take in boarders or permit visitors or guests to reside in a CDA unit in a “doubling-up,” roommate, or other housing arrangement that changes the structure of the family household composition as established by the lease.

A resident family must notify the CDA when overnight guests will be staying in the unit for more than 3 days. A guest can remain in the unit no longer than 7 consecutive days or a total of 14 cumulative calendar days during any 12 month period.

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 provide verifiable documentation for the need and provide verifiable 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 program housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above.

The CDA may prohibit any guest from visiting, temporarily staying, or living in the resident family's unit or on CDA property for a stated period of time if the guest:

- has engaged in negative behavior or certain criminal activity under the CDA's screening criteria; or
- has engaged in or threatened violent or abusive behavior toward CDA personnel, CDA contractors, or CDA residents on or off CDA property

The CDA will notify guests that they are prohibited from CDA property by issuing a no trespassing notice with the resident (if known) and the guest (in person, by mail to a known address, or by posting a notice on the CDA's property).

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

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

### ***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 5.603].

A foster child is a child that is in the legal guardianship or custody of a state, county, 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.

### ***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***

Generally an individual who is or is expected to be absent from the federally assisted housing unit for 90 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 CDA housing unit for more than 90 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

### ***Absent Students***

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 the CDA 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 [24 CFR 5.403]***

If a child has been placed in foster care, the CDA 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.

### ***Absence Due to Incarceration***

If the sole member of the household is incarcerated for more than 30 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 30 consecutive days. The rent and other charges must remain current during this period. The CDA will determine the incarcerated family member's eligibility for the program in accordance with its screening policies.

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

An employed head, spouse, or cohead absent from the unit more than 90 consecutive days due to employment will continue to be considered a family member.

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

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, the CDA 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.

### ***Return of Permanently Absent Family Members***

Any adult family member, who moves from the dwelling unit to establish a new household:

- shall be removed from the lease;
- will be considered as permanently absent;
- may not re-join the household or be re-admitted to the unit; and
- must apply as a new applicant for placement on the waiting list if they intend to become a program participant.

The tenant must notify the CDA of any adult family member's move-out within 10 business days of its occurrence.

### ***Live-In Aide [24 CFR 5.403]***

*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].

The CDA 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 [24 CFR 5.100], not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable healthcare provider that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. For continued approval, the family must submit a new, written request—subject to CDA 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.

Live-in aides must be at least 18 years of age.

The CDA has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if:

- 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, has engaged in negative behavior or criminal activity under the CDA's screening criteria, or if the person has engaged in or threatened violent or abusive behavior toward CDA personnel, CDA contractors, or CDA tenants.



- The person currently owes rent or other amounts to the CDA or to another PHA in connection with a federally assisted housing program under the U. S. Housing Act of 1937.

The CDA will notify the family in writing of its decision to approve or not to approve a particular person as a live-in aide upon receiving a request for a live-in aide, and all required documentation related to the request, including a Live-in aide's requirement to provide a Social Security number to the CDA.

Live-in aides or their family members are not entitled to the CDA's grievance hearing process.

## **Project Eligibility [24 CFR part 5, 880.603]**

Project eligibility establishes whether applicants are eligible to reside in the specific CDA development to which they have applied. The following criteria affect the match between an applicant and the applicant's eligibility for occupancy in a particular CDA development:

- The extent to which all or some of the units in a CDA development are designated for specific family types, such as those who are elderly or disabled; and
- The project-specific occupancy standards established by the CDA, the family size, and the unit sizes available in the CDA development

The multifamily housing developments covered under this tenant selection plan have the following project eligibility specifications or requirements:

### *Parkside Apartments*

#### *Parkside Highrise Apartments*

Units are reserved for occupancy by an elderly family, a disabled family, or a person with disabilities. The CDA will place applicants eligible for any accessible unit at Parkside Highrise Apartments on the waiting list in accordance with the property's waiting list procedures and in accordance with the occupancy standards for accessible units. The Fair Housing Amendments Act of 1988 prohibits the CDA from discriminating against elderly or disabled families that include children.

#### *Parkside Townhouse Apartments*

Families must meet occupancy standards that take into account the size and number of bedrooms needed based on the number of people in the family. The CDA will place applicants eligible for any accessible unit at Parkside Townhouse Apartments on the waiting list in accordance with the property's waiting list procedures and in accordance with the occupancy standards for accessible units.

### *Karabis Apartments*

Designated to serve a disabled family or a person with disabilities, where the disabled family member requires the special features of the unit. All units at Karabis have been made accessible as a result of alterations intended for use by a specific qualified person with a disability (handicaps) or mobility impairment. Verification will be required to determine project eligibility as these accessible units are limited to persons with mobility impairments.

### **Income Limits [24 CFR 5.653, 880.603(b)]**

HUD establishes income limits to ensure that federal rental assistance is provided only to low-income families. The income limits are revised and published annually and are based on HUD estimates of median family income in a particular area or county, with adjustments for family size. The types of low-income families for the developments covered in this tenant selection plan are as follows:

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

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

*Extremely low-income family.* A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher [24 CFR 5.603(b)].

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.

## **Restriction on Assistance to Noncitizens [24 CFR part 5, 880.603(b)]**

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 [24 CFR 5.506]. 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 [24 CFR 5.508]. 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 the CDA to request additional documentation of their status, such as a passport.

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

### ***Eligible Noncitizens***

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with the CDA's efforts to verify their immigration status. 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 (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. The CDA 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:

#### **Mixed Families [24 CFR 5.504]**

A family is eligible for admission as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated, and that they may request a hearing if they contest this determination.

#### **Ineligibility Based on Citizenship/Immigration Status [24 CFR 5.514(d), (e), and (f)]**

The CDA will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen. When the CDA 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 10 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 the CDA. The informal hearing with the CDA 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.

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

The CDA will verify the status of applicants at the time other eligibility factors are determined. For new occupants joining the resident family the CDA 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, the CDA 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.

#### **Informal Hearing with Regard to Noncitizens [24 CFR 5.514]**

When the CDA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the CDA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

A request for appeal must be made by the family in writing directly to the USCIS. The family must provide the CDA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the CDA, of its decision. When the USCIS notifies the CDA of the decision, the CDA will send written notice to the family of its right to

request an informal hearing within 30 days of receiving notice of the USCIS decision regarding the family's immigration status.

The informal hearing will be conducted by a person other than the person who made the decision under review, or a subordinate of this person. The family will be provided an opportunity to present written or oral objections to the decision.

The CDA will notify the family of the CDA's final decision within 14 calendar days of the date of the informal hearing and the notice will state the basis for the decision.

### **Social Security Number Requirements [24 CFR 5.216 and 5.218]**

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age six has been added to an applicant family within the six months prior to program admission, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of admission.

**Note:** These requirements do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed an SSN, has previously disclosed a SSN that HUD or the Social Security Administration (SSA) determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

The CDA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

### **Family Consent to Release Information [24 CFR 5.230, 5.232]**

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, and regardless of whether they report income, to sign the following forms:

- Form HUD-9887, *Notice and Consent for the Release of Information to HUD and to a PHA*;
- Form HUD-9887-A, *Applicant's/Tenant's Consent to the Release of Information Verification by Owners of Information Supplied by Individuals Who Apply for Housing Assistance*; and
- Any other consent and verification forms as needed to collect information relevant to the family's eligibility and level of assistance.

The CDA must deny admission to the housing program if any member of the applicant family fails to sign and submit consent and verification forms which allow the CDA to obtain information that the CDA has determined is necessary in administration of the housing program. The CDA must also terminate assistance under the housing program if any member of the tenant's family fails to sign and submit consent and verification forms as required.

## Other Qualifications for Admission

All applicants for the developments covered in this tenant selection plan must be 18 years of age or older or an emancipated minor under a state law.

## Student Eligibility [24 CFR 5.612]

The CDA must determine a student's eligibility for housing assistance at move-in, annual recertification, initial certification (when an in-place tenant begins receiving housing assistance), and at the time of an interim recertification if one of the family composition changes reported is that a household member is enrolled as a student. Housing assistance shall not be provided to any individual who:

- Is enrolled as either a part-time or full-time student at an institution of higher education for the purpose of obtaining a degree, certificate, or other program leading to a recognized educational credential;
- Is under the age of 24;
- Is not married;
- Is not a veteran of the United States Military;
- Does not have a dependent child;
- Is not a person with disabilities, as such term is defined in 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C.1437a(b)(3)(E)) and was not receiving housing assistance as of November 30, 2005. (See definition of *Person with Disabilities*);
- Is not living with his or her parents who are receiving housing assistance; and
- Is not individually eligible to receive housing assistance **and** has parents (the parents individually or jointly) who are not income eligible to receive housing assistance.

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

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

Any financial assistance a student receives (1) under the Higher Education Act of 1965, (2) from private sources, or (3) from an institution of higher education that is in excess of amounts



received for tuition and any other required fees and charges is included in annual income, except if the student is over the age of 23 with dependent children or if the student is living with his or her parents who are receiving housing assistance.

The CDA must verify the amounts of tuition and required fees charged by the school when determining annual income. The CDA will verify those amounts using the student's bill or account statement (including an online account statement) as provided by the school's bursar's office, or by contacting the bursar's office directly. The CDA will also review any itemized list covering tuition and fees charged by the institute of higher education if available as published on their website.

If an ineligible student is a member of an existing household receiving housing assistance, the assistance for the household will not be prorated but will be terminated. In these cases, the CDA will provide proper notice to the tenant of the increase in the tenant's rent and will then increase the tenant's rent to market rent (or contract rent) and, where applicable, make the assistance available to another tenant. The tenant has a right to request, within 10 calendar days from the date of the notice, a meeting with the CDA to discuss the proposed termination of assistance.

The CDA cannot evict or require an ineligible student to move from a unit as long as the student is in compliance with the terms of the lease.

## APPLICATIONS AND WAITING LISTS

### **Applying for Assistance [24 CFR 880.603(a)]**

Any family who wishes to be admitted to a CDA assisted property or placed on a property's waiting list must complete an application for admission. Depending upon the length of time that applicants may need to wait to be housed, the CDA 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. A full-application will be used and the family will be required to provide all of the information necessary to establish family eligibility and the amount of rent the family will pay.
- 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, the CDA will require a pre-application and the family will be required 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. When selected from the waiting list, the family will be required to complete a full-application and provide all of the information necessary to establish family eligibility and the amount of rent the family will pay. The CDA will accept full-applications in person or by mail, and not by fax. The CDA will accept full-applications via the internet through its applicant portal system from applicants who create a CDA MyHousing portal account.

Families may initially apply to the CDA through an on-line application system. Access to the CDA's on-line application system will be made available through the CDA's Housing website. When the CDA accepts applications via an on-line system, special provisions will be made to ensure that those who are disabled and cannot utilize a computer can apply. An exception to the online submittal process will be made for disabled families through an accommodation request. An accommodation request may be made in writing or verbally presented to the CDA's central office. All applications must be complete in order to be accepted by the CDA for processing. The CDA will not accept applications by fax.

The CDA will utilize digital or electronic signature alternatives as HUD permits.

### **Placement on Waiting List [24 CFR 880.603(b)(1)]**

The CDA must review each completed application received and make a preliminary assessment of the family's eligibility. The CDA must place on the waiting list families for whom the list is open unless the CDA determines the family to be ineligible. No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list:

- Before the CDA places an applicant on the waiting list, the CDA will review the application for errors and determine if documentation is required to meet open waiting list or project eligibility requirements. If the CDA determines that a family is ineligible for placement on the waiting list, the family will not be placed on the waiting list. Where a family is determined to be ineligible for placement on the waiting list, the CDA will send written notification.

- If at any time the CDA determines an applicant is not eligible for admission to the housing program, the CDA will send notice to the applicant. Applicants who are denied admission will be granted appeal rights of the ineligibility determination within 14 days of the date of the denial notice. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing and explain the process for doing so.

- If the CDA can determine from the information provided that a family is eligible:

The family will be placed on the waiting list according to CDA preference(s) and the date and time their complete application is received by the CDA.

The CDA will issue confirmation of placement on the waiting list upon receiving a completed application. Families will also be provided information on the CDA's waiting list preference(s).

The CDA will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards. On a case-by-case basis, the CDA may permit a family who requests to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to CDA standards and local codes). If the request is approved, the family must agree not to request a transfer for two years after admission, unless they have a subsequent change in family size or composition.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. A final determination of eligibility and qualification for preferences will be made when the family is selected from the waiting list.

### **Organizing Waiting List [24 CFR 880.603]**

The CDA's waiting lists must be organized in such a manner to allow the CDA to accurately identify and select families in the proper order, according to the policies described in this tenant selection plan. The CDA will maintain one single community-wide waiting list for each of its developments and applicants may be on multiple CDA waiting lists. Based upon the application dates and times and qualification for preferences, placement on multiple waiting lists may vary.

Within a waiting list, the CDA will designate subparts to easily identify who should be offered the next available unit (i.e. unit size and accessible units). The waiting list will contain the following information for each applicant listed:

- Name and social security number of head of household
- Unit size required (number of family members)
- Amount and source of annual income
- Accessibility requirement, if any
- Date and time of application or application number
- Household type (family, elderly, disabled)
- Admission preference, if any
- Race and ethnicity of the head of household

### **Opening and Closing Waiting List [24 CFR 880.603(b)(1)]**

The CDA is permitted to close a waiting list, in whole or in part, if it has an adequate pool of families to fill its developments. The CDA may close a waiting list completely, or restrict intake by preference, type of development, or by size and type of dwelling unit. The CDA will generally close a waiting list when the estimated waiting period for housing applicants on the list reaches 24 months or longer for the most current applicants. Where the CDA has particular preferences or other criteria that require a specific category of family, the CDA may elect to continue to accept applications from these applicants while closing the waiting list to others:

- When the CDA closes a waiting list, the CDA will advise potential applicants that the waiting list is closed and refuse to take additional applications.
- When the CDA decides to no longer accept applications, the CDA will publish notice to that effect on its website and through area social service agencies.

If a waiting list has been closed, it may be reopened at any time:

- The CDA will announce the reopening of a waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice. The notice will specify where, when, and how applications are to be received.
- The CDA will give public notice by publishing the relevant information on the CDA Housing website and through area social service agencies.

### **Family Outreach [24 CFR 880.601(a)]**

The CDA will conduct outreach as necessary to ensure that the CDA has a sufficient number of applicants on a development waiting list to fill anticipated vacancies and to assure that the CDA is affirmatively furthering fair housing and complying with the Fair Housing Act. Because HUD requires the CDA to serve a specified percentage of extremely low income families, the CDA may need to conduct special outreach to ensure that an adequate number of such families apply for its assisted housing developments. The CDA will monitor the characteristics of the population being served and the characteristics of the population as a whole in the CDA's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

### **Reporting Changes in Family Circumstances**

While the family is on the waiting list, the family must inform the CDA, within 10 business days, of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

Changes in an applicant's circumstances while on the waiting list may affect the family's qualification for a particular bedroom size, entitlement to a preference, or project eligibility. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly.

## **Updating Waiting List**

A waiting list or subparts of a waiting list may be updated as needed to ensure that all applicants and applicant information is current and timely.

To update a waiting list, the CDA 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 the CDA 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 must be in writing and may be delivered in person or by mail. Responses must be received by the CDA no later than 10 business days from the date of the CDA letter.

See **Removal from Waiting List** for the CDA's policy regarding the family's failure to respond or the CDA's notice is returned by the post office.

The CDA may allow a grace period after completion of a waiting list purge. Applicants who respond to the CDA during this grace period will be reinstated.

Families who wish to re-apply to the waiting list, will have to wait 3 months before doing so, and only if the waiting list is open at that time.

## **Removal from Waiting List [24 CFR 880.603(b)(1)]**

The CDA will remove applicants from the waiting list if they have requested that their name be removed. In such cases no informal hearing is required.

Families will be removed from the waiting list if they do not respond to CDA requests for information or if any CDA correspondence is returned by the post office with or without a forwarding address. When the family is removed from the waiting list, no informal hearing will be offered. Such failures to act on the part of the applicant prevent the CDA from making an eligibility determination; therefore, no informal hearing is required. In these cases, families who wish to re-apply to the waiting list will have to wait 3 months before doing so, and only if the waiting list is open at that time.

A CDA supervisor or qualified CDA eligibility staff person may reinstate a family to the waiting list, if it is determined that the lack of response was due to CDA error, or due to circumstances beyond the family's control. A determination of reinstatement will require verification.

If the CDA determines that the family is not eligible for admission at any time while the family is on the waiting list, the family will be denied admission and removed from the waiting list. Notice will be sent to the family's address of record. The notice will state the reasons the family was denied admission and removed from the waiting list, and the notice will inform the family how to request an informal hearing regarding the CDA's decision.

## **Admission Preferences [24 CFR 5.655, 880.603(b)]**

When the waiting list is open, the CDA will place eligible applicants on the waiting list based upon their awarded preference(s) and the date and time a complete application is received by the CDA. Preferences are categories for people with priority status. 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. Preferences may be claimed at the time of application or at any time prior to admission. The CDA will use the following owner-adopted preferences for the developments covered under this tenant selection plan:

### Residency Preference [24 CFR 5.655(c)(1)]

An applicant receives a *City of Madison* preference when the applicant can provide verification that the head-of-household, spouse, or co-head lives, works, or has been hired to work or is attending school or is participating in training programs in the CDA's jurisdiction (City of Madison, Wisconsin).

If an applicant does not live in the City of Madison, but lives within the County of Dane, the applicant will receive a *Dane County* preference when the applicant provides verification that the head-of-household, spouse, or co-head lives, works, has been hired to work, attends school, or participates in a training program in Dane County, Wisconsin.

In order to verify that an applicant should receive a residency preference, the CDA will require one of the following documents related to the head-of-household, spouse, or cohead:

- Current, signed lease or utility bill in the applicant's name
- Current real estate tax assessment bill
- A shelter verification letter, if the applicant lives at a shelter
- Most recent motel/hotel receipt, if the applicant is living at a motel/hotel
- Voter registration records
- Social service agency residency verification affidavit
- Written employer certification, on employer's company-letterhead, if the applicant is hired to work in the City of Madison or in Dane County
- Most recent payroll statement, if the statement includes the local address of the employer
- Current school registration documentation showing where attending school or training

### Elderly/Disabled/Family Preference

An applicant may receive the *Elderly/Disabled/Family* preference, if the head-of-household, spouse, or cohead is 62 years of age or older; or the head-of-household, spouse, or cohead meets the HUD definition of disabled; or if the household composition includes any minor children (under the age of 18).

In order to verify that an applicant should receive the *Elderly/Disabled/Family* preference, the CDA will require one of the following documents:

- Unexpired, valid driver's license, government issued I.D., or certified birth certificate indicating that the head-of-household, spouse, or cohead is 62 years of age or older

- Current year’s Social Security Proof of Income letter (also referred to as “award letter”) for head-of-household, spouse, or cohead
- Complete name, address, and phone number of medical professional for verification of disability for head-of-household, spouse, or cohead
- Birth certificate for any minor (under the age of 18) children in the household

Claiming a preference does not automatically grant an applicant a preference. Obtaining a preference does not guarantee admission into the CDA’s housing program. Applicants must meet all qualifications in order to receive assistance, regardless of preference status. Preferences affect only the order of applicants on the waiting list. Preferences do not make anyone eligible who was not otherwise eligible, and preferences do not change the CDA’s right to adopt and enforce tenant screening criteria. The CDA will inform applicants about available preferences and give applicants an opportunity to show that they qualify for an available preference by providing required written verification.

**Selection from Waiting List [24 CFR 880.601(b), 880.603(b)]**

The CDA must select applicants from a waiting list and offer units in the order required by HUD rules and CDA policies. The CDA’s selection methods are impacted in part by project eligibility specification, any selection preferences that the family qualifies for, income-targeting policies and requirements, and CDA screening policies. The availability of units also may affect the order in which families are selected from the waiting list. The CDA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the CDA’s tenant selection policies. All families with the Elderly/Disabled/Family will have admission preference over *Other Singles*. The CDA will assign housing units in the developments covered under this tenant selection plan, in the following priority order:

**Parkside Development**

***Parkside Highrise Apartments***

- First Priority:** Elderly families, disabled families, or persons with disabilities, who have a head-of-household, spouse, or co-head who lives, works, or attends school within the CDA’s jurisdiction (City of Madison, WI).
- Second Priority:** Elderly families, disabled families, or persons with disabilities, who have a head-of-household, spouse, or co-head who lives outside of the City of Madison, but who lives, works, or attends school in Dane County, WI.
- Third Priority:** Elderly families, disabled families, or persons with disabilities, who have a head-of-household, spouse, or co-head who does not live, work, or attend school in the CDA’s jurisdiction or in Dane County, WI.

*Parkside Townhouse Apartments*

- First Priority:** Families with the Elderly/Disabled/Family preference, who have a head-of-household, spouse, or co-head who lives, works, or attends school within the CDA’s jurisdiction (City of Madison, WI).
- Second Priority:** Other Singles who live, work, or attend school within the CDA’s jurisdiction (City of Madison, WI).
- Third Priority:** Families with the Elderly/Disabled/Family preference, who have a head-of-household, spouse, or co-head who lives outside of the City of Madison, but who lives, works, or attends school in Dane County, WI.
- Forth Priority:** Other Singles who live outside of the City of Madison, but who live, work, or attend school in Dane County, WI.
- Fifth Priority:** Families with the Elderly/Disabled/Family preference, who have a head-of-household, spouse, or co-head who does not live, work, or attend school in the CDA’s jurisdiction or in Dane County, WI.
- Sixth Priority:** Other Singles who do not live in the CDA’s jurisdiction and who do not live in Dane County, WI.

**Karabis Development**

- First Priority:** Disabled families or persons with disabilities, who have a head-of-household, spouse, or co-head who lives, works, or attends school within the CDA’s jurisdiction (City of Madison, WI).
- Second Priority:** Disabled families or persons with disabilities, who have a head-of-household, spouse, or co-head who lives outside of the City of Madison, but who lives, works, or attends school in Dane County, WI.
- Third Priority:** Disabled families or persons with disabilities, who have a head-of-household, spouse, or co-head who does not live, work, or attend school in the CDA’s jurisdiction or in Dane County, WI.

When selecting applicants from the waiting list, the CDA will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. The CDA will offer the unit to the highest ranking applicant who qualifies for that unit size or type, or that requires the accessibility features. By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status.



## **Income Targeting Requirement [24 CFR 5.653, 5.655(b)]**

For each development assisted under a Section 8 New Construction contract, the CDA must lease not less than 40% of the dwelling units that become available for occupancy in any development fiscal year to extremely low-income families (ELI). ELI families are those with annual incomes at or below 30% of the area median income.

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

If there are no ELI families on a waiting list, the CDA will actively market to ELI families and all marketing efforts will be in compliance with Fair Housing. If after the CDA has actively advertised to ELI families for a reasonable time period, and the CDA is still unable to attract a sufficient number to lease 40% of available units during the year to ELI families, the CDA may rent to other eligible families, and the CDA will continue to advertise to ELI families.

## **Notification of Selection**

The CDA will notify the family by first class mail when it is selected from the waiting list. The selection-notice will inform the family of any final application requirements and may include an application interview.

If a notification letter is returned to the CDA, with or without a forwarding address, the family will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents the CDA from making an eligibility determination; therefore no informal hearing will be offered.

## **Final Application or Application Interview**

Families selected from the waiting list will be required to complete the CDA's final application process and may be required to participate in an eligibility interview. In the final application process, the family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as the completion of required forms and the submission of required documentation and signatures:

- The CDA will require the family to submit final application materials within 10 business days.
- If the family does not meet the final application requirements, because the family submits only some of the required materials, the CDA will provide the family with a written list of missing items that must be submitted within 10 business days.
- If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. Extensions may be provided for circumstances beyond the applicant's control and verification may be required before the CDA grants an extension.
- If the required documents and information are not provided within the required time frame (plus any extensions granted by the CDA), the family will be canceled from the waiting list. Such failure to act on the part of the applicant prevents the CDA from making an eligibility determination; therefore no informal hearing will be offered.

- An advocate, interpreter, or other assistant may assist the family with the final application process.
- Depending on staff resources, the CDA may require families who are selected from the waiting list to participate in an eligibility interview as the final application process:
  - The head of household and the spouse/co-head 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 the CDA. The interview will be conducted only if the head of household or spouse/co-head provides appropriate documentation of legal identity.
  - Interviews will be conducted in English. The CDA will provide translation services in accordance with the CDA's LEP plan.
  - If the family is unable to attend a scheduled interview, the family must contact the CDA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the CDA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without CDA approval will be canceled from the waiting list based on the family's failure to supply information needed to determine eligibility. Such failure to act on the part of the applicant prevents the CDA from making an eligibility determination; therefore no informal hearing will be offered.
  - The CDA will follow the same final application procedures listed above as related to missing materials, extensions, and failure to act.

### **Final Eligibility Determination [24 CFR 880.603(b)]**

The CDA will notify a family in writing of their eligibility within 10 business days of the determination and will provide the approximate date of occupancy insofar as that date can be reasonably determined.

If an applicant family appears to be ineligible, the CDA will notify the family of the proposed decision to deny admission in writing. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing.

## DENIAL OF ADMISSION [24 CFR part 5, 880.603]

### Overview

A family that does not meet eligibility criteria must be denied admission. HUD requires or permits the CDA to deny admission based on certain types of current or past behaviors of family members. The CDA's authority in this area is limited by the Violence against Women Act of 2013 (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, sexual assault, or stalking [24 CFR 5.2005(b)].

The CDA is authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to its housing programs. This authority assists the CDA in complying with HUD requirements and CDA 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 the CDA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903]. The CDA will perform criminal background checks through national, state, multi-state, and local law enforcement criminal background check systems for all adult household members. If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, the CDA will request a fingerprint card and will request information from the National Crime Information Center (NCIC).

The CDA is 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. If the CDA proposes to deny admission based on a criminal record or on lifetime sex offender registration information, the CDA 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)].

The CDA will not pass along to the applicant the costs of a criminal records check [24 CFR 5.903(d)].

## Definitions

*Currently engaged in* is defined as any use of illegal drugs during the previous 12 months [24 CFR 5.853(b)]

*Disposition Date* means:

- The date the applicant household member completed probation, completed parole, or was released from incarceration for the criminal activity that is being considered as a basis for denial
- If sentencing includes a fine and does not include confinement, parole, or probation, the disposition will be the date the applicant household member was ordered to pay a fine for the criminal activity or civil offense that is being considered as a basis for denial
- For criminal activity for which there was not a conviction, the disposition date will be the date the activity occurred
- For cases involving deferred prosecution, the disposition date will be the date the deferred prosecution agreement is fulfilled.

[24 CFR 5.855(b)]

*Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]

*Drug paraphernalia* is defined as any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, inhaling, or otherwise introducing into the human body a controlled substance, possession of which is unlawful under the Controlled Substances Act [21 USC 863(d)]

*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, 5.855]

*Gang or Gun Crimes* is defined as criminal activity related to gang membership or affiliation, or criminal activity involving the use or threatened use of a gun

*Heinous Crimes* is defined as criminal activity that is shockingly brutal, highly disturbing, sensationalized, involves cruelty or dehumanizing acts, or where life or quality of life has been taken, including but not limited to kidnap, torture, arson, homicide, or criminal drug activity where the victim is a minor or resulting in the death of a victim

*Pattern of use of drugs or abuse of alcohol* is defined as more than one incident on or off the premises during the previous 24 months

*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]

### **Required Denial of Admission [24 CFR 5.854, 5.856, 5.857]**

HUD requires the CDA to deny assistance in the following cases:

- The CDA will deny admission to a family for three years from the date of eviction if any member of the household has been evicted from federally assisted housing for drug-related criminal activity. However, the CDA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity if the CDA is able to verify that the household member who engaged in the criminal activity has successfully completed a supervised drug rehabilitation program approved by the CDA, or the CDA is able to verify through proof of current residence that the person who committed the crime is no longer living in the household [24 CFR 5.854]
- The CDA determines that any household member is currently engaged in the use of illegal drugs [24 CFR 5.854].
- The CDA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs[24 CFR 5.854], 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 [24 CFR 5.857]. In determining reasonable cause, the CDA will consider all credible evidence, including but not limited to, any record of convictions, arrests, police contacts, civil ordinance violations, 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, police contact, or civil ordinance violation. The CDA will also consider evidence from treatment providers or community-based organizations providing services to household members.
- The CDA will deny admission to a family if any household member is subject to a lifetime registration requirement under a state sex offender registration program [24 CFR 5.856].

## **Other Permitted Reasons for Denial of Admission [24 CFR 5.855]**

The CDA is responsible for screening family behavior and suitability for tenancy. In doing so, the CDA 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. If any household member is currently engaged in, has engaged in, or has a disposition date for any of the following criminal activities, within the past two years, the family will be denied admission:

1. *Drug-related criminal activity [24 CFR 5.855(a)(1)]; or*

The CDA considers any drug-related civil activity as drug-related criminal activity. The CDA will also consider criminal acts involving drug paraphernalia to be drug-related criminal activity.

2. *Violent criminal activity [24 CFR 5.855(a)(2)]; or*

3. Criminal activity on or off the premises that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents; or [24 CFR 5.855(1)(3)]; or

4. Criminal activity on or off the premises that may threaten the health or safety of the CDA, CDA staff, contractors, subcontractors, or agents of the CDA [24 CFR 5.855(a)(4)]; or

5. Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse [24 CFR 5.855(a)(3), 5.855(a)(4)].

Evidence of such criminal activity includes, but is not limited to:

**Convictions:** Any conviction for criminal activity listed in 1. through 5. above and with a disposition date within the past two (2) years.

**Arrests:** Any arrests for criminal activity listed in 1. through 5. above with a disposition date within the last two (2) years.

**Police Contacts:** Any police contact for criminal activity listed in 1. through 5. above with a disposition date within the last two (2) years.

**Civil Ordinance Violations:** Any civil ordinance violations for criminal activity listed in 1. through 5. above with a disposition date within the last two (2) years.

**Evictions:** Any record of an eviction resulting in an eviction judgment from public or privately-owned housing as a result of criminal activity listed in 1. through 5. above within the past two (2) years (See Required Denial of admission, for mandatory denial based upon an eviction for drug-related criminal activity.)

The CDA considers the following criminal activity as egregious and of an extreme nature that would warrant the CDA to consider the criminal activity even if the disposition is more than two years from the date of application:

6. Conviction of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing; or

7. *Heinous Crimes*; or

8. *Gang or Gun Crimes*; or

9. *Sex Offenders with Less than Lifetime Registration Requirements:* Any criminal activity that results in any household member's requirement to register as a sex offender under any state sex offender registry for a period of less than lifetime.

If any household member has engaged in criminal activity listed in 6. through 9. above, or if any household member is currently required to register as a sex offender on any state sex offender registry for a period of less than a lifetime, the CDA will consider all credible evidence, including but not limited to convictions and arrests with a disposition date more than two (2) years from the date of application as permitted by 24 CFR 5.100, and 5.855.

A conviction for criminal activity will be given more weight than an arrest for such activity. In making its decision to deny assistance, the CDA may consider the factors discussed under **Consideration of Circumstances**. Upon consideration of such factors, the CDA may, on a case-by-case basis, decide not to deny assistance at any point during the admissions process, including an informal hearing.

### **Previous Behavior [24 CFR 5.851(a), 880.603(b)]**

HUD authorizes the CDA 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, the CDA will consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). The CDA will deny admission to an applicant family if the CDA determines that the family:

- Has a history of unsuitable past performance in meeting financial obligations, including rent within the past two years
- Has a history of disturbance of neighbors, destruction of property, not meeting City of Madison health or building codes, not passing CDA, WHEDA, or HUD inspections, or living or housekeeping habits at prior residences within the past two years which may adversely affect the health, safety, or welfare of other tenants
- Has a history of eviction from housing or termination from residential programs within the past two years (considering relevant circumstances)
- Has been evicted from federally-assisted housing in the last five (5) years (See Required Denial of Admission for situations when denial is mandatory based on eviction from federally-assisted housing. See Other Permitted Reasons for Denial of Admission, for criteria to apply when applicant has been evicted from federally-assisted housing based on criminal activity)
- Has ever been terminated from the housing assistance developments covered in this tenant selection plan. Termination includes drug nuisance, judgment for eviction, vacating without required notice (also referred to as "skipping"), or mutual lease-termination
- Has ever been terminated under any other CDA housing program for lease violations or for violating family obligations
- Owes rent or other amounts to the CDA or to any other PHA or owner in connection with any assisted housing program. In cases where the CDA determines that any member of an applicant household owes a debt to the CDA or to another PHA and the applicant family member has included the PHA in a bankruptcy filing or the PHA debt has been discharged by the bankruptcy court, the CDA will consider the amount owed to the PHA to be discharged, but will deny admission based on the previous negative behavior and suitability for tenancy
- Does not supply any information that the CDA, WHEDA, or HUD determines is necessary in administration of the housing program, including submission of required evidence of citizenship or eligible immigration status. "Information" includes any requested certification, release, or other documentation
- Misrepresented or does not provide complete and true 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 CDA tenants, CDA personnel, or CDA contractors on or off CDA property

*Abusive or violent behavior towards CDA personnel or CDA contractors* 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.

The CDA is required to use information in HUD's Enterprise Income Verification (EIV) system for verifying current and prior participation in federally assisted housing. At the time of processing an applicant for admission, the CDA will use the EIV system to confirm:

- If any household member owes an outstanding debt to any PHA (in any state or U.S. territory.)
- If any household member has any negative status upon their voluntary or involuntary move out of a subsidized unit under the Public Housing or Section 8 program.
- If any household member is receiving rental assistance at another address.

In making its decision to deny assistance, the CDA may consider the factors discussed under **Consideration of Circumstances**. Upon consideration of such factors, the CDA may, on a case-by-case basis, decide not to deny assistance at any point during the admissions process, including an informal hearing. When considering two years of rental history, the CDA may consider rental history beyond two years if needed to obtain a minimum of 24 months rental history. The CDA 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.

## **Screening for Suitability as a Tenant [24 CFR 5.851(a), 880.603(b)]**

The CDA is responsible for the screening and selection of families to occupy assisted housing units. The CDA may consider all relevant information. Screening is important to assisted-housing communities and program integrity, and to ensure that assisted housing is provided to those families that will adhere to lease obligations. The CDA will consider the family's history with respect to the following factors:

- Payment of housing-related expenses, including 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

In order to determine the suitability of applicants the CDA will examine applicant history for the past two years. Such background checks will include:

- *Current and Past Performance in Meeting Financial Obligations, Especially Rent*

The CDA will review PHA and landlord references for the past two years. The CDA may obtain records prior to the last 24 months, if needed to obtain a minimum of 24 months of rental history. With the exception of debts owed to the CDA or any other PHA, the CDA will only consider records within the last five (5) years. The CDA will gather information about current and past performance in meeting rental obligations such as rent payment record, late payment record, whether the PHA/landlord ever began or completed lease termination for non-compliance, and whether utilities were ever disconnected in the unit. PHAs and landlords will be asked if they would rent to the applicant family again. References from landlords, who are related to the applicant family by blood or marriage, will be considered to be insufficient.

The CDA may also review utility company references covering the monthly amount of utilities, late payment, disconnection of services, return of a utility deposit and whether the applicant can get utilities turned on in his or her name. *Utility* is defined as a useful service or resource offered to the public, such as electricity, gas, water/sewer, and phone, and used to keep a home or apartment safe and functional. For suitability purposes, the CDA may also consider cable, broadband/internet, and cell phone service as housing related, "living" expenses and may take into consideration.

The CDA will check court records of eviction actions and other financial judgments, and credit reports. Eviction records older than five (5) years will not be considered by the CDA. The CDA will consider housing related debts and late payment activity on the credit report. A lack of credit history will not disqualify someone from becoming a CDA housing resident, but poor credit may.

The CDA will examine third-party verifications and undertake a balancing test. The CDA may deny an applicant if the applicant has a history of being late with rent payments; was evicted or asked to leave from their residence(s) during the past two years; or had other legal action initiated against them for negative behavior or for lease violations. Other factors which the CDA may consider include the amount of former rent, loss of employment, death or divorce from primary financial support, illness, and other verifiable changes-in-circumstances beyond the applicant's control.

Applicants must be able to demonstrate the ability to pay rent and other charges as required by the lease. The CDA must verify that applicants can pay the CDA's minimum rent payment, utilities if applicable, and a security deposit. Insufficient income to pay the cost of rent, utilities if applicable, and to make standard security deposit payments will be grounds for denial of admission.

- *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*

The CDA will review PHA and landlord references covering a 24 month period of time. The CDA may obtain records prior to the last 24 months, if needed to obtain a minimum of 24 months of rental history. The CDA will only consider records within the last five (5) years. The CDA will gather information on whether the applicant kept a unit clean, safe, and sanitary; whether the applicant violated health or safety codes; whether any damage was done by the applicant or their visitor or their guests 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 habits caused insect or rodent infestation; whether the applicant allowed unauthorized guests to stay in the unit; whether the neighbors complained about the applicant; and whether the police were ever called because of disturbances.

Police and court records will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in police contact, arrest, fine, or conviction.

- *Lack of Verification*

The CDA will make two efforts to obtain information from current and previous landlords, as well as from utility companies. If landlords or utility companies do not respond to verification requests from the CDA within a reasonable amount of time, the applicant will be asked to provide a professional reference and to complete a questionnaire regarding their ability to comply with lease terms.

Professional references include, but are not limited to: present and former employers, school officials, volunteer work providers, healthcare providers, social workers, clergy, police officers, and parole/probation officers. The references will be requested to complete a verification of the applicant's ability to live responsibly, to take care of their living space, to handle their own finances, to avoid disturbing neighbors, and to follow the essential provisions of the lease (ability to pay rent, care for the unit, and not disrupt the right of other tenants to the peaceful enjoyment of the premises).

The CDA will consider verification of completion or graduation from a CDA-approved, two-year transitional housing program in lieu of a professional reference and the completion of a questionnaire.

- *First-Time Renters*

The CDA will not deny admission to the housing program based solely on a determination by the CDA that an applicant has never been party to a lease contract, with no rental payment history.

## **Evidence**

CDA admissions staff will keep in mind the concept of the “preponderance of the evidence” when making admission decisions. If an informal hearing is requested to dispute the denial of admission, the person conducting the informal hearing will use “preponderance of the evidence” as the burden of proof for findings of fact.

*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 5.852]**

HUD authorizes the CDA 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. The CDA may consider the following factors when making a decision to admit or deny an applicant, and may do so at any time during the admissions process up to and including the informal hearing, but the CDA is not required to make a finding as to each factor:

- 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, sexual assault, 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 criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property
- Evidence of the applicant family’s participation in or willingness to participate in social service or other appropriate counseling service programs
- In the case of drug or alcohol abuse, whether the culpable household member has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully. In these cases, the CDA will require the applicant to submit evidence of the household member’s successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

As a condition of receiving assistance, the CDA may, on a case-by-case basis, agree to allow a family 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 CDA housing unit, and the family must provide verifiable evidence of the former applicant family household member’s current living address.

### **Notice of Denial [24 CFR 5.903(f), 5.905(d), 880.603(b)(2)]**

If an applicant family appears to be ineligible, the CDA will notify the family of the proposed decision to deny admission in writing. The denial notice will include a brief statement of the reason(s) for the proposed denial, citation to the applicable regulation(s) or CDA policy, and a summary of the facts that form the basis for each reason for denial. The details related to the factual basis for the denial will include, but are not limited to, information such as the following (as applicable):

- criminal, police case, or other court case number;
- name or description of offense;
- offense date;
- disposition date;
- housing provider information or rental address if related to negative rental information, and eviction, or if related to debts owed to a housing provider or housing authority;
- credit reporting agency name and contact information, if related to negative credit or unsuitable past performance in meeting financial obligations; and
- any other facts relevant to the basis for the denial of admission.

The denial notice will state that the applicant may request an informal hearing to dispute the accuracy and relevance of the information in the denial notice. The decision and will describe how to obtain the informal hearing.

## **Informal Hearing Process [24 CFR 880.603(b)(2)]**

When the CDA makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. Informal hearings provide the applicant a means to hear the details of the reasons for rejection, and an opportunity to present evidence to the contrary if available, and to claim mitigating circumstances if possible. The CDA will only offer informal hearings to applicants for the purpose of disputing denials of admission.

A request for an informal hearing must be made by the applicant, in writing, and delivered to the CDA either in person or by first class mail, by the close of the business day, no later than 14 days from the date of the CDA's notification of denial of admission. If the family does not request an informal hearing within that 14 day period, the denial of admission will stand. A second opportunity to request an informal hearing will not be provided.

Applicants who intend to have an attorney represent them at their informal hearing must provide this information to the CDA at the time of their request for an informal hearing. The CDA will not discuss the applicant's case, or share any information from the applicant's file, with their attorney or anyone else without an applicant's signed release of information provided to the CDA.

The informal hearing will be conducted by a person other than the one who made the decision under review, or a subordinate of this person. The applicant will be provided an opportunity to present written or oral objections to the decision of the CDA.

The applicant may bring their own counsel, other representative(s), and/or witnesses to the informal hearing. Attorneys providing representation to applicants at informal hearings must be licensed to practice law in the State of Wisconsin.

In cases where the hearing officer is not a CDA employee, the person conducting the informal hearing will make a recommendation to the CDA, but the CDA is responsible for making the final decision as to whether admission should be granted or denied.

Informal hearings will only be rescheduled due to a verifiable medical emergency, and Informal hearings may not be conducted if the applicant arrives more than 15 minutes late for the scheduled informal hearing.

The CDA is responsible for making the final decision as to whether admission should be granted or denied. The CDA will notify the applicant of the CDA's final decision. In rendering a decision, the CDA will evaluate the following matters:

- **CDA Notice of Denial:** Whether or not the reason(s) for denial were stated adequately in the notice
- **The validity of the evidence:** The person conducting the informal hearing will evaluate whether the facts presented at the informal hearing (including but not limited to the information in the applicant's admissions file and any information provided by the applicant) prove the reason(s) for denial of admission. If the facts prove that there are grounds for denial of admission, and the reason for denial is mandatory according to HUD regulations, the decision to deny admission will be upheld by the person conducting the informal hearing.

If the facts prove the grounds for denial, and the reason for denial is discretionary according to HUD regulations, the CDA will consider the recommendation of the person conducting the informal hearing.

The CDA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision, a citation to the applicable regulation(s), a summary of the facts relied upon in making the decision, and information regarding an appeal.

If the decision to deny admission is overturned as a result of the informal hearing, processing for admission will resume.

If the family fails to appear for their informal hearing, the denial of admission will stand and the family will be so notified.

If the hearing officer is a CDA employee, the notice will be mailed within 10 business days of the informal hearing to the applicant and his or her representative. In cases where the hearing officer is not a CDA employee, the CDA will mail a notice of final decision within 10 business days after receiving the hearing officer's written decision. The CDA will mail the notice to the applicant and his or her representative, if any.

The written final decision after an informal hearing shall include the following statement about the right to appeal:

*“Per 24 CFR 880.603(b)(2), you have the right to request HUD review of the CDA’s determination.”*

### **Remote Informal Hearings**

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal hearings, applicants may still request an in-person informal hearing, as applicable.

All CDA policies and processes for remote informal hearings will be conducted in accordance with due process requirements and compliance with HUD regulations.

The CDA has the sole discretion to require or permit that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster. In addition, the CDA will conduct an informal hearing remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have childcare or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person informal hearing would create an undue health risk. The CDA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

If the informal hearing will be conducted via a video conferencing platform, the CDA will ensure that all applicants, applicant representatives, CDA representatives, and the person conducting the informal hearing can adequately access the platform (i.e., hear, be heard, see, and be seen) by providing technical assistance to that extent, if needed, before the hearing. The technical assistance that may be provided by the CDA will be in the form of outlining the necessary procedures for access to the telephone conferencing call-in or a video conferencing platform. If any applicant, applicant representative, CDA representative, or person conducting the informal hearing is unable to effectively utilize the video conferencing platform, the informal hearing will



be conducted by telephone conferencing call-in. Witness testimony may be accepted via telephone call-in.

If the informal hearing is to be conducted remotely, the CDA will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled hearing through the mail or via email, as well as in person, if the CDA office is open to the public. The CDA will scan and email copies of these documents to the CDA representatives and to the person conducting the informal hearing the same day.

Documents will be shared electronically whenever possible.

## OCCUPANCY STANDARDS AND UNIT OFFERS

### **Determining Bedroom Size [24 CFR 5.655(b)(4), 880.603(b)(1)]**

Occupancy standards are established by the CDA to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from excessive wear and tear or underutilization. In selecting a family to occupy a particular unit, the CDA may match characteristics of the family with the type of unit available, (i.e. number of bedrooms). HUD does not specify the number of persons who may live in the assisted housing units of various sizes. Although the CDA does determine the size of unit the family qualifies for under the occupancy standards, the CDA does not determine who shares a bedroom/sleeping room. The CDA's occupancy standards for determining unit size will be applied in a manner consistent with fair housing requirements. The CDA will assign one bedroom for each two persons within the household, except in the following circumstances:

- Persons of the opposite sex (other than spouses, domestic partners, and children under age 5) will not be required to share a bedroom.
- Due to the overall size of the CDA's one-bedroom units, an adult with one child (of any age) in the household may be assigned to a two-bedroom unit.
- Persons of different generations will not be required to share a bedroom. "Generations" is defined as a body of living beings constituting a single step in the line of descent from an ancestor. This step involves a 20 to 30 year span of time between the birth of parents and that of their offspring, and during which children are born and grow up, become adults, and begin to have children of their own
- Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.
- Single person families will be allocated a zero or one bedroom.
- Children expected to be born to a pregnant woman and foster children will be included in determining unit size.

The CDA will reference the following standards in determining the appropriate unit bedroom size for a family:

<b>BEDROOM SIZE</b>	<b>MINIMUM NUMBER OF PERSONS</b>	<b>MAXIMUM NUMBER OF PERSONS</b>
0	1	1
1	1	2
2	2	4
3	3	6

## **Exceptions to Occupancy Standards**

The CDA will consider granting exceptions to the occupancy standards at the family's request if the CDA determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances. All requests for exceptions to the occupancy standards must be submitted in writing. When evaluating exception requests the CDA will consider the size and configuration of the unit. In no case will the CDA grant an exception that is in violation of local housing or occupancy codes, regulations or laws.

Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be reviewed on a case-by-case basis. The CDA will have discretion to approve such a request as long as the unit is not overcrowded according to local code, and the family agrees not to request a transfer for a period of two years from the date of admission, unless they have a subsequent change in family size or composition. The CDA will evaluate the relationship and ages of all family members, the overall size of the unit, the need for the smaller size unit, and the waiting lists for the smaller and larger size units. An exception may also be granted for a smaller bedroom size in cases where the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides and the family does not want to transfer to a larger size unit.

To prevent vacancies, the CDA may provide an applicant family with a larger unit than the occupancy standards permit. However, in these cases the family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is an appropriate size unit available for the family to transfer to.

In the case of a request for exception as a reasonable accommodation, the CDA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the CDA will consider the exception request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

Requests for a larger size unit must explain the need or justification for the larger size unit, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source, unless the disability and the disability-related request for accommodation is readily apparent or otherwise known.

## **Unit Offers [24 CFR 1.4(b)(2)(ii)]**

The CDA must assign eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination. In filling an actual or expected vacancy, the CDA must offer the dwelling unit to an applicant in the appropriate sequence. The CDA will offer the unit until it is accepted. The CDA will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

Approved applicants will be provided one (1) offer of a unit of suitable size at the development for which they applied for.

Applicants must accept or refuse a unit offer within 3 business days of the date of the unit offer. Offers made by telephone will be confirmed by letter.

## Accessible Units [24 CFR 8.27]

The CDA 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, the CDA may house an applicant needing an accessible unit in a larger accessible unit in order to maximize the use of the accessible features. Section 504 requires that the CDA take reasonable, nondiscriminatory steps to maximize the use of accessible units by eligible individuals whose disability requires the accessibility features of a particular unit. As part of this requirement, the CDA must assign available accessible units to tenants/applicants in the following order:

- When there is a current tenant or qualified applicant with a household member requiring accessibility features of the unit:
  - a. Current Tenants. The CDA must first offer the unit to an individual with disabilities currently residing in a non-accessible unit in the same development or, who requires the features of the unit;
  - b. Applicants with Disabilities. If no current tenants require the special features of the accessible unit, the CDA must then offer the unit to the next qualified applicant on the waiting list with a family member who needs the features of the accessible unit.

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit:

- When neither a current tenant nor a qualified applicant requires the features of the available accessible unit:
  - a. The CDA may offer the unit to another tenant or applicant in a manner consistent with this tenant selection policy and will incorporate into the lease an agreement that the tenant will move to a non-accessible unit of the proper size within the same property when one becomes available. The lease addendum will state that the tenant will pay for the cost of such moves.
  - b. In the case where the members of the tenant household who required the special features of the accessible unit no longer reside in the unit, and where the lease permits, the CDA will require the remaining members of the household to move to a unit without accessibility features (see **Unit Transfers**).

## UNIT TRANSFERS

### Overview

The CDA may require the tenant to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the tenant must be provided, that may or may not require a transfer. The tenant may also request a transfer, such as a request for a new unit as a reasonable accommodation.

### Emergency Transfers

An emergency transfer differs from a typical transfer in that it requires immediate action by the CDA. In the case of a genuine emergency, it may be unlikely that the CDA will have the time or resources to immediately transfer a tenant. Due to the immediate need to vacate the unit, placing the tenant on a transfer waiting list would not be appropriate.

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, and an appropriate unit is not immediately available, the CDA will assist the family in finding alternative or temporary accommodations, if available, where necessary repairs cannot be made within a reasonable time. The following is considered an emergency circumstance warranting an immediate transfer of the tenant or family:

- Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health, or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples include that the resident's unit has been damaged by fire, flood, or other causes of such a degree that the unit is not habitable, provided that, although the damage was a result of carelessness or negligence of the resident or a member of the resident's household, the resident has, in writing, accepted the responsibility for such damage and has agreed to make restitution to the CDA for the expense of repairing such damage.
- In accordance with the Violence Against Women Act (VAWA), the CDA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation. The ability of the CDA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the CDA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer, if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer. Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements for a VAWA emergency transfer

Emergency transfers are mandatory for the resident. The resident, except when the transfer is due to the need of the CDA, will pay all moving costs related to the transfer. The resident will be required to pay a new deposit and upon acceptance of a unit will be informed of the manner in which it is to be paid.

### **CDA Required Transfers**

The types of transfers that may be required by the CDA, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for renovation, and emergency transfers.

#### *Accessible Unit Transfer*

When a non-accessible unit becomes available, the CDA will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible [24 CFR 8.27(b)]. The CDA may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit. The resident, transferring out of the accessible unit, will pay all moving costs related to the transfer.

#### *Occupancy Standards Transfers [24 CFR 880.605]*

The CDA will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied. For purposes of this transfer policy, overcrowded and over-housed are defined as follows:

- *Overcrowded*: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides (see CDA occupancy chart)
- *Over-housed*: the family no longer qualifies for the bedroom size in which they are living based on the CDA's occupancy standards (see CDA occupancy chart)

The CDA may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on the CDA's occupancy standards, when the CDA determines there is a need for the transfer.

The CDA may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by the CDA that a transfer is necessary and that the family has been placed on the transfer list. When the CDA determines that a transfer is required, the resident:

- May remain in the unit and pay the HUD-approved market rent; or
- Must move within 30 days after the CDA notifies the family that a unit of the required size is available within the property; and must pay all costs associated with the move.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) will only be required to transfer if it is necessary to comply with the approved exception.

## *Renovation*

These transfers permit the CDA to renovate units at a development. The CDA's relocation plan may require the transferring of affected families to other available housing units within the development or for temporary relocation. If the relocation plan calls for transferring families to other units within the development, the affected families will be placed on the transfer list.

## **Transfers Requested by Tenant**

The only transfer requests that the CDA is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of the CDA. To avoid administrative costs and burdens, the types of requests for transfers that the CDA will consider are limited to requests for transfers to alleviate a serious or life threatening medical condition, transfers due to a reasonable accommodation, and transfers to a different unit size as long as the family qualifies for the unit according to the CDA's occupancy standards. No other transfer requests will be considered by the CDA.

The CDA will consider the following as high priority transfer requests:

- Emergency
- As a request for reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first floor unit for a person with mobility impairment, or a transfer to a unit with accessible features
- Under-housed or overcrowded

The CDA will consider the following as regular priority transfer requests:

- To live in housing units designated for the elderly/disabled
- When it is to the CDA's advantage (e.g. redevelopment activity, caretaking or other programmatic efforts)

Except where reasonable accommodation is being requested, the CDA will only consider transfer requests from residents that are in good standing, including, but not limited to meeting the following requirements:

- Have no negative rental history, including delinquency in rent or other charges, currently owe back rent, other charges, or a debt to the CDA, have a pattern of late payment, or have housekeeping lease violations
- Have no history of disturbances or of damaging property
- Have not engaged in criminal activity that threatens the health and safety of residents or staff
- Have not had utilities turned off (applicable only to units with tenant-paid utilities)

A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection, as well as annual CDA, WHEDA, and mandatory HUD inspections.

Exceptions to the good record requirement may be made when it is to the CDA's advantage to make the transfer. Exceptions may also be made when the CDA determines that a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, sexual assault, or stalking and who provides documentation of abuse.

If a family requested to be placed on the transfer waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or the transfer is needed as a reasonable accommodation.

The CDA will not grant a transfer request solely to accommodate neighbors who "cannot get along."

The resident will bear all of the costs of transfer s/he requests. When a tenant transfers to a new unit, the CDA will charge a new deposit and refund the deposit for the old unit. The resident will be billed for any maintenance or others charges due for the "old" unit.

### **Transfer Process**

Residents requesting a transfer to another unit will be required to submit a written request for transfer.

In order to request the emergency transfer under VAWA, the resident will be required to submit an emergency transfer request form (HUD-5383). The CDA may, on a case-by-case basis, waive this requirement and accept a verbal request in order to expedite the transfer process. If the CDA accepts an individual's statement, the CDA will document acceptance of the statement in the individual's file.

In case of a reasonable accommodation transfer, the CDA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the CDA will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

Upon receiving the family's written request for transfer, the CDA will respond within ten (10) business days by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family. If the family does not meet the "good standing" requirements, the manager will address the problem and, until resolved, the request for transfer will be denied.

The CDA will maintain a transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties. Emergency transfers will not automatically go on the transfer list. Instead emergency transfers will be handled immediately, on a case-by-case basis. If the emergency will not be finally resolved by a temporary accommodation, and the resident requires a permanent transfer, that transfer will be placed at the top of the transfer list. Transfers will be processed in the following order:

- 1) Emergency transfers (hazardous maintenance conditions, VAWA)
- 2) High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
- 3) Transfers to make accessible units available



- 4) Renovation
- 5) Occupancy standards
- 6) Other CDA-required transfers
- 7) Other tenant-requested transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date. With the approval of the executive director, the CDA may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis. Renovation transfers will gain the highest priority as necessary to allow the CDA to meet the renovation schedule. Transfers will take precedence over waiting list admissions.

Residents will receive one offer of a transfer. When the transfer has been requested by the resident, refusal of that offer without good cause will result in the removal of the household from the transfer list and the family must wait six months to reapply for another transfer.

## CHARGES FOR FACILITIES AND SERVICE

### **Pet Deposit [24 CFR 5.318(d)]**

This part describes the CDA's policies for pet deposits and fees for those who reside in elderly and disabled designated housing developments. The CDA requires a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered. The CDA must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. The CDA must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements.

Pet owners who reside in elderly and disabled designated housing developments are required to pay a pet deposit in addition to any other required deposits. The amount of the deposit is the higher of the family's total tenant payment or \$50.00, and must not exceed \$300.00. The initial deposit cannot exceed \$50.00 at the time the pet is properly registered and brought onto the premises. The remainder of the deposit is to be paid in monthly \$10.00 installments, although the resident may pay the entire amount or increments greater than \$10.00 if he/she chooses to do so.

The CDA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit. The resident will be billed for any amount that exceeds the pet deposit. The CDA will provide the resident with a written list of any charges against the pet deposit within 30 business days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the CDA will provide a meeting to discuss the charges.

### **Other Charges**

#### **Pet-related Damages During Occupancy [24 CFR 5.318(e)]**

All reasonable expenses incurred by the CDA as a result of damages directly attributable to the presence of the pet in the development will be the responsibility of the resident, including:

- The cost of repairs and replacements to the resident's dwelling unit
- Fumigation of the dwelling unit
- Repairs to common areas of the development
- The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the CDA's maintenance and damage charges policies. Pet deposits will not be applied to the costs of pet-related damages during occupancy. Charges for pet-related damage are not part of rent payable by the resident.

### **Pet Waste Removal Charge [24 CFR 5.318(d)(4)]**

Regulations do not address the CDA's ability to impose charges for house pet rule violations. However, charges for violation of CDA pet rules may be treated like charges for other violations of the lease and CDA tenancy rules. For elderly and disabled designated housing developments, a separate pet waste removal charge of \$5.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy. Charges for pet waste removal are not part of rent payable by the resident. Notices of pet waste removal charges will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the CDA may not take action for nonpayment of the charge until the conclusion of the grievance process.

### **Charges for Late Payment of Rent**

If a resident fails to make payment in full by the end of office hours on the fifth day of the month, a late fee of \$25.00 will be charged. [HUD Field Office approval, June 11, 2013]

CDA will deduct accrued, unpaid late charges from the tenant's security deposit at the time of move out. CDA will not evict a tenant for failure to pay late charges [4350.3 REV-1; 6-23]

### **Charges for Checks Returned for Insufficient Funds**

CDA will impose a \$25.00 NSF fee when the bank charges the CDA for processing the returned check. [HUD Field Office approval, June 11, 2013]

### **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 the CDA for the damage within 30 days after the tenant receives a bill from the CDA. The CDA will bill the tenant for actual and reasonable costs for the repairs. Any accrued, unpaid charges for damages will be deducted from the tenant's security deposit at the time of move out.

### **Special Management Services**

The CDA will charge a tenant for lock out calls and providing extra keys. At move out, tenants will be charged for keys issued that are not returned.

The CDA will charge tenant's for court filing, attorney and sheriff fees related to eviction proceedings. Fees are due 14 days after billing.

Residents are required to report needed repairs in a timely manner and may be subject to a \$50.00 maintenance fee if deficiencies are noted during an inspection. For units requiring re-inspection, residents will be responsible for paying a \$50.00 re-inspection fee.

## SECURITY DEPOSIT REQUIREMENTS [24 CFR 880.608]

### **Security Deposit at Possession of Unit**

The CDA will collect a security deposit equal to the greater of one month's total tenant payment, or \$50.00 at the time tenant takes possession of the premises. The CDA may require tenant to pay security deposit in a guaranteed form; for example, money order or cashier's check, or bank check.

### **Security Deposits for Tenant Transfers**

When a tenant transfers to a new unit, the CDA will charge a new deposit and refund the deposit for the old unit.

### **Refunding and Use of Security Deposit**

In order to receive a refund of the security deposit, a tenant must provide the CDA with a forwarding address. The CDA may use the security deposit as reimbursement for any unpaid rent or other amounts the tenant owes under the lease. Within 21 days after the move out date, the CDA will refund the full security deposit to a tenant that does not owe any amounts under the lease; or provide the tenant with an itemized list of any unpaid rent, damages to the unit, and an estimated cost for repair. Any balance will be refunded to the tenant.

If the tenant disagrees with the reimbursement of the security deposit, the tenant has a right to present their objections to the CDA in an informal meeting. The CDA will keep a record of any disagreements and meetings in the tenant file for a period of three years for inspection by the HUD Field Office or Contract Administrator.

## UNIT INSPECTIONS

### Overview

HUD rules require the CDA to inspect each dwelling unit prior to move-in, at move-out, and annually during the period of occupancy. In addition, the CDA may require additional inspections, in accordance with CDA Policy.

### Move-In Inspections

The lease must require the CDA and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the CDA and the resident, must be provided to the tenant and be kept in the resident file. Any adult family member may attend the initial inspection and sign the inspection form for the head of household.

### Move-Out Inspections

The CDA must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes, unless the tenant vacates without notice to the CDA. The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear. When applicable, the CDA will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 21 days of conducting the move-out inspection.

### Annual Inspections [24 CFR 5.705]

The CDA is required to inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS) in 24 CFR 5, Subpart G, Physical Condition Standards and Inspection Requirements, to conduct annual project inspections. These standards address the inspection of the site area, building systems and components, and dwelling units.

### Quality Control Inspections

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame. Supervisory quality control inspections will be conducted in accordance with the CDA's maintenance plan.

### Special Inspections

CDA staff may conduct a special inspection for any of the following reasons:

- Housekeeping
- Unit condition
- Suspected lease violation
- Preventive maintenance
- Routine maintenance
- There is reasonable cause to believe an emergency exist

## **Other Inspections**

Building exteriors, grounds, common areas and systems will be inspected according to the CDA's maintenance plan.

## **Notice and Scheduling of Inspections**

### ***Non-emergency Entries***

The CDA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. The CDA will notify the resident in writing at least 24 hours prior to any non-emergency inspection.

For regular annual inspections, the family will receive at least 2 weeks written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for the CDA to enter the unit.

### ***Emergency Entries***

The CDA may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, the CDA must leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

## **Scheduling of Inspections**

Inspections will be conducted during business hours. If a family needs to reschedule an inspection due to a medical situation, they must notify the CDA at least 24 hours prior to the scheduled inspection. The CDA will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. The CDA will not reschedule an inspection without verifiable medical documentation.

## **Attendance at Inspections**

Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if he or she wishes. If no one is at home, the inspector will enter the unit, conduct the inspection and leave a copy of the inspection report in the unit.

## **Inspection Results**

The CDA is obligated to maintain dwelling units and the development in decent, safe and sanitary condition and to make necessary repairs to dwelling units.

Residents are required to report needed repairs in a timely manner and may be subject to a \$50 maintenance fee if deficiencies are noted during an inspection.

Residents are required to pass all inspections to meet building, zoning, housing, health, and fire codes, as well as to meet HUD regulations affecting health, safety, and property.

For units requiring re-inspection, residents will be responsible for paying a \$50 re-inspection fee. Failure to pass any inspection may result in termination of tenancy.

## **Emergency Repairs**

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify the CDA of the damage, and the CDA must make repairs within a reasonable time frame.

If the damage was caused by a household member or guest, the CDA must charge the family for the reasonable cost of repairs. The CDA may also take lease enforcement action against the family. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

When conditions in the unit are hazardous to life, health, or safety, the CDA will make repairs or otherwise abate the situation within 24 hours. Defects hazardous to life, health or safety include, but are not limited to, the following:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke detectors

## **Non-Emergency Repairs**

The CDA will correct non-life threatening health and safety defects within 30 days of the inspection date. If the CDA is unable to make repairs within that period due to circumstances beyond the CDA's control (e.g. required parts or services are not available, weather conditions, etc.) the CDA will notify the family of an estimated date of completion. The family must allow the CDA access to the unit to make repairs.

## **Resident-Caused Damages**

Damages to the unit beyond wear and tear will be billed to the tenant. Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

### ***Housekeeping***

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, the CDA will provide proper notice of a lease violation.

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy. Residents may be subject to a \$50 re-inspection fee.

Notices of lease violation will also be issued to residents who purposely disengage any smoke alarms on CDA property. Only one warning will be given. A second incidence will result in lease termination. Residents will be responsible for any local Fire Department fines incurred for the tampering, removing, altering, damaging or otherwise rendering of any smoke alarm inoperable.



**ANNUAL RECERTIFICATION REQUIREMENTS**  
**[24 CFR 5.657(b), 5.659, 880.603(c)(1)]**

The CDA will conduct a recertification of family income and composition at least annually. The CDA will then recompute the tenants' rents and assistance payments, if applicable, based on the information gathered. Tenants must supply information requested by the CDA or HUD for use in a regularly scheduled recertification of family income and composition in accordance with HUD requirements. Tenants must sign consent forms and asset declaration forms. At each annual recertification, the CDA must provide the tenant with a copy of the HUD fact sheet describing how the tenant's rent is determined.

The CDA is not required to perform annual recertifications for individual tenants who are paying market rent unless the tenants request an initial certification to determine their eligibility to receive program assistance.

Annual recertifications will be conducted on an annual basis in accordance with the CDA Triangle building schedule so as to optimize coordination of recertification and inspection activities.

The CDA has the discretion to use a streamlined income determination for fixed sources of income belonging to current program participants. This method may be used to adjust income on the two annual recertifications following the annual recertification (or move-in certification) in which the income was verified through third-party verification. The CDA must verify all income, both fixed and non-fixed, every third year. In situations where a household has a combination of fixed income and non-fixed income, the CDA may use the streamlined income determination for the fixed income and must verify all non-fixed income through third party verification. Streamlined income determination is not applicable for individuals who are not yet participants. Tenants may instruct the CDA not to use the streamlined income determination to determine their income. In that case, third party verification will be required for all income sources

At the annual reexamination, the CDA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The CDA will use the Dru Sjodin National Sex Offender database, or any online, searchable database hosted by the Department of Justice, to verify the information provided by the tenant.

If the CDA proposes to terminate assistance based on lifetime sex offender registration information, the CDA will notify the household of the proposed action and will provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination.

**INTERIM RECERTIFICATION REPORTING**  
**[24 CFR 5.657(c), 5.659, 880.603(c)(2)]**

**Requirement to Report Changes**

To ensure that assisted tenants pay rents commensurate with their ability to pay, tenants must report the following changes, in writing, to the CDA within 10 days of the change:

1. A family member moves out of the unit;
2. The family proposes to move a new member into the unit;
3. An adult member of the family who was reported as unemployed on the most recent certification or recertification obtains employment; or
4. The family's income cumulatively increases by \$200 or more per month.

**Family-Initiated Interim Recertification**

Tenants may request an interim recertification due to any changes occurring since the last recertification that may affect the TTP or tenant rent and assistance payment for the tenant. Changes a tenant may report include the following:

1. Decreases in income including, but not limited to, loss of employment, reduction in number of hours worked by an employed family member, and loss or reduction of welfare income;
2. Increases in allowances including, but not limited to, increased medical expenses, and higher child care costs; and
3. Other changes affecting the calculation of a family's annual or adjusted income including, but not limited to, a family member turning 62 years old, becoming a full-time student, or becoming a person with a disability.

If a tenant reports a change in income that does not increase the household's cumulative income by \$200 or more a month, the CDA will not process an interim recertification to increase the tenant's rent. If a tenant reports any other change addressed above along with an increase in income that does not increase the household's cumulative income by \$200 or more a month, the CDA will not include the increase in income in processing the interim recertification.

The CDA may refuse to process an interim recertification when the tenant reports a decrease in income only if the following apply:

1. The decrease was caused by a deliberate action of the tenant to avoid paying rent. For example, CDA receives documented evidence that a tenant quit a job in order to qualify for a lower rent.
2. CDA has confirmation that the decrease will last less than one month.

**ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM**  
**[24 CFR 5.233, 5.234, 5.236, Notice H 2011-21]**

**Overview**

The CDA 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 tenants must sign required consent forms and must cooperate with the verification process as a condition of receiving assistance. The CDA must not pass on the cost of verification to the family. The CDA will follow the Enterprise Income Verification (EIV) System guidance provided by the U.S. Department of Housing and Urban Development (HUD) in Notice H 2013-06 and any subsequent guidance issued by HUD. All information obtained through the EIV verification process will be handled in accordance with the records management policies established by the CDA.

The EIV System is a web-based system maintained by HUD. As a third party source, EIV contains data showing earned income, unemployment compensation, Social Security (SS) benefits, and Social Security Income (SSI) benefits for resident families.

Information in EIV is derived from computer matching programs initiated by HUD with the Social Security Administration (SSA) and the U.S. Department of Health and Human Services' (HHS') National Directory of New Hires (NDNH), for all tenants will valid personal identifying information (name, date of birth, and Social Security Number) from the current, active form HUD-50059, *Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures*, in HUD's Tenant Rental Assistance Certification Subsystem (TRACS)

The CDA is required by HUD to use the EIV system in its entirety, including the use of EIV Income Reports to verify income and identify issues or discrepancies which may impact a family's assistance, and EIV Verification Reports that further assist in reducing subsidy payment errors.

The CDA will inform all applicants and residents of its use of HUD's EIV system as a UIV resource, during the admission and reexamination process.

## **Consent for the Release of Information**

Form HUD-9887, *Notice and Consent for the Release of Information*, authorizes the CDA to use data obtained through computer matching with another agency for verifying the individual's income used for establishing the eligibility for and level of benefits under HUD's assisted housing programs. The form must be signed and dated by each adult member of the household regardless of whether they have income. The head of household, spouse, or co-head, regardless of age, and each family member who is 18 years of age or older must sign and date the form at move-in and at initial and annual recertification. The form is valid for 15 months from the date of signature.

The form HUD-9887 is not required for accessing the EIV Verification Reports. However, any member of the household who turns 18 must promptly sign the form HUD-9887 and the CDA must not use the EIV Income Reports for that tenant until the form is signed. Therefore, a current form HUD-9887 will be retained on file before the CDA accesses the employment or income data contained in the EIV system for a tenant.

The form HUD-9887 signed by the applicant and each applicant family member 18 years of age or older will be kept on file in order for the CDA to use the Existing Tenant Search in the EIV system at the time of application processing and tenant screening.

In addition to the form HUD-9887, as signed and dated, form HUD-9887-A, *Applicant's/Tenant's Consent to the Release of Information*, will also be on file. This form authorizes the CDA to request information about the tenant from a third-party source.

The CDA will utilize digital or electronic signature alternatives as HUD permits.

## **Consent to Disclose Information**

The Federal Privacy Act (5 USC 552a, as amended) prohibits the disclosure of an individual's information to another person without the written consent of such individual. The CDA will not share (provide a copy of display) EIV data of an adult household member with another adult household member or to a person assisting the tenant with the recertification process, unless the individual has provided written consent to disclose such information. See Exhibit 6, *CDA Tenant Consent to Disclose EIV Income Information*.

The CDA is not prohibited from discussing with the head of household, and showing the head of household, how the household's income and rent were determined based on the total income reported and verified.

## **Tenant Notification of Recertification**

The CDA is required to provide a written notice to tenants informing them of their responsibility to provide the CDA with information about changes in family income or composition that are necessary to properly complete an annual recertification.

The notification will include a list of information that tenants are required to bring with them to their recertification interview. The list will include documentation needed to support the income the tenant is receiving as well as documentation to support any deductions the tenant may be eligible to receive. For example, elderly and disabled tenants will be requested to bring in information related to Social Security benefits and medical expenses and tenants who are

working will be requested to bring in documentation to support the income they are currently receiving.

### **Tenant Does Not Provide Requested Information**

If the tenant does not provide requested information to the CDA either because they do not have the requested information or they refuse to provide the information, the CDA must obtain verification of the information from the third party source.

The CDA will remind the tenant that they are required to supply, if available, any information requested for use in a regularly scheduled recertification (annual or interim) of income and family composition. (24 CFR §5.659)

The CDA may determine that the tenant is not in compliance with program requirements and terminate assistance or tenancy, if the tenant fails to provide the requested information in the timeframe established by the CDA.

The CDA is also required to request third party verification from the source when the tenant disputes the EIV information.

The CDA may reject any tenant-provided documentation, if they deem the information to be unacceptable. Reasons the documentation may be rejected:

- 1) The document is not an original document; or
- 2) The original document has been altered, or not legible; or
- 3) The document appears to be a forged document (i.e. does not appear to be authentic).

### **Independent Third Party Verification**

The CDA will obtain independent third party verification from the source which is used to complement EIV data when:

- 1) The tenant is unable to provide acceptable and current employment and/or income documentation to support the wage and unemployment income in the EIV system;
- 2) The tenant disputes the EIV income information;
- 3) There is an EIV income discrepancy reported at the time of recertification (annual or interim) or at other times as specified by the CDA;
- 4) There is incomplete EIV employment or income data for a tenant and the CDA needs additional information. Examples of additional information include but are not limited to:
  - a. Effective date of income (i.e. employment, unemployment compensation, or Social Security benefits).
  - b. For new employment: pay rate, number of hours worked per week, pay frequency, hire date (not required to be reported to state), etc.
  - c. Confirmation of change in circumstances (i.e., reduced hours, reduced rate of pay, temporary leave of absence, etc.); and,
- 5) There is no EIV employment or income data for a tenant.

When the CDA is unable to obtain third party verification, e.g., the third party does not respond, the tenant file will contain documentation as to why third party verification was not available.

The CDA may accept self-certification from the tenant only if third party verification cannot be attained.

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

### **Incorrect EIV Income Information**

If the tenant disputes the accuracy of employment and wage information in the EIV system as provided by the employer after additional third party verification obtained by the CDA is determined to be inaccurate, the tenant should contact the employer directly, in writing, to dispute the employment and/or wage information and request that the employer correct erroneous information. The tenant should provide the CDA with a copy of this written correspondence to maintain in the tenant file.

If the tenant disputes the accuracy of unemployment benefit information in the EIV system as originating from the local State Workforce Agency (SWA) after additional third party verification obtained by the CDA is determined to be inaccurate, the tenant should contact the SWA directly, in writing, to dispute the unemployment benefit information, and request that the SWA correct erroneous information. The tenant should provide the CDA with a copy of this written correspondence to maintain in the tenant file.

If the tenant disputes the accuracy of Social Security (SS) and Social Security Income (SSI) benefit information in the EIV system as originating from the SSA after additional third party verification obtained by the CDA is determined to be inaccurate, the tenant should contact the SSA and request that the erroneous information be corrected.

If a tenant suspects that someone is using their Social Security Number, the tenant is responsible for filing an identity theft complaint with the Federal Trade Commission (FTC), monitoring their credit reports, and placing a fraud alert on their credit report through the three national credit reporting agencies.

### **EIV Applicant Screening Reports and Income Verification**

The CDA will use EIV's *Existing Tenant Search* to identify any applicant household member who may be receiving assistance through another federal housing provider. If the applicant is determined to be eligible for admission to CDA housing, the CDA will follow up with a respective federal housing provider to confirm the individual's program participation status before admission to a CDA housing program. A family may only receive rental assistance at only one home. The CDA will retain the search results with the application along with any documentation obtained as a result with the applicant and the PHA and/or Owner of the property at the other location.

The CDA will use EIV's *Debts Owed to PHAs and Termination Information* to confirm any negative status which may exist if any applicant household member moved out of a subsidized unit (in the past) under any subsidized housing program.

The CDA will request third party verification from the income source for determining an applicant's income for eligibility and rent calculation purposes.

## **EIV Income Reports**

The CDA must use income reports at the time of recertification (annual and interim) of family composition and income and may use it at other times as indicated. In the years when the CDA elects to utilize streamlined income determination, the CDA will not use the EIV system to verify fixed sources of income. All non-fixed sources of income will remain subject to full income-verification requirements.

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 and may also be used to meet the regulatory requirement for third party verification.

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, SS 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 resident files with the applicable annual or interim reexamination documents.

When the CDA determines through income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken.

EIV Income Reports include the *Summary Report*, *Income Report*, and *Income Discrepancy Report*.

### ***EIV Income Summary Report***

The *Summary Report* provides a summary of information taken from the current, active certifications contained in HUD's TRACS file at the time of the income match. It also provides the identity verification status for each household member. The CDA will use this report:

- 1) At the time of recertification to review and resolve the status of any household member(s) and the CDA will further check any "failed" status monthly through the SSA Failed SSA Identity Test report as changes in the identity verification status for these tenants may occur.
- 2) As verification that a tenant's Social Security Number (SSN) has been verified by the SSA as being a valid SSN.

The CDA will retain in the tenant file:

- 1) The *Income Summary Report(s)* as verification of the SSN for all household members whose identity verification status is verified. If the *Income Summary Report* in the tenant file shows an identity verification status of "Verified" for all household members required to have a SSN, the CDA will no longer continue to print out the *Income Summary Report* at recertification unless there is a change in household composition or in a household member's identity verification status.

The CDA will remove and destroy, at the time of recertification, copies of verification documentation received from the tenant at the time of disclosure of their SSN once the identity verification status shows "Verified".

- 2) Any correspondence or documentation received to resolve a “Failed” or “Deceased” status.
- 3) Documentation for household members who are not required to disclose and provide verification of a SSN:
  - Tenants who were 62 years of age or older as of January 31, 2010, and whose initial determination of eligibility was begun before January 31, 2010; and
  - Individuals who do not contend eligible immigration status. These individuals will continue to have a TRACS generated identification number in the SSN field. No employment or income information will be provided in the EIV system for these individuals; therefore, the CDA will obtain third party verification from the income source.

### ***EIV Income Report***

The *Income Report* provides employment and income information reported in the NDNH and SSA databases for each household member who passes the SSA identity test. The *Income Report* also identifies household members who may be receiving multiple subsidies.

The CDA will maintain in the tenant file the following documentation as a third-party source to verify tenant employment and income information:

- 1) **No Dispute of EIV Information:** *Income Report*, current acceptable tenant-provided documentation, and, if necessary (as determined by the CDA), third party verification from the source.
- 2) **Disputed EIV Information:** *Income Report* and third party verification from the source for the disputed information.
- 3) **Tenant-reported income not verified through the EIV System:** *Income Report*, current acceptable tenant-provided documents and/or third party verification from the source.

The CDA will use the *Income Report* identifying the NDNH employment, wage and unemployment income information in the EIV system as third party verification of the tenant’s employment. The CDA will not use the *Income Report* to calculate the tenant’s income.

The CDA will print the *Income Report* and use the report as third party verification of the tenant’s employment and/or unemployment. The CDA will confirm with the tenant that the employment and/or unemployment information in the EIV system is correct. If the tenant agrees that the employment and/or unemployment information in the EIV system is correct, the CDA will:

- 1) Request the tenant to provide documentation (e.g., four current, consecutive check stubs that will support their current income being received).
- 2) Use the tenant provided documentation for determining the tenant’s income unless additional information is needed or the CDA has reason to reject the tenant provided documentation. In these instances, third party verification will be obtained from the income source.



- 3) Annualize the tenant's income using the current income projected forward for the next 12 months

The CDA will make copies of any tenant provided documents for the tenant file and return the originals to the tenant. The CDA will retain the printed report and supporting documentation in the tenant file along with the applicable form HUD-50059.

If the tenant disputes the employment, wage or unemployment information in the EIV system or when the tenant reports that they are employed or receiving unemployment but there is no information in the EIV system, the CDA will obtain third party verification from the employer or local SWA.

The CDA will use the *Income Report* identifying SS benefit information in the EIV system as third party verification of the tenant's income and will use the *Income Report* to calculate the tenant's income. A copy of the award or benefit letter or Proof of Income Letter is not required unless the tenant disputes the SSA information in the EIV system.

Upon confirming with the tenant that the current benefit amount in the EIV system is correct, the CDA will:

- 1) Use the gross benefit amount reported in the EIV system for calculating the tenant's income by annualizing the gross benefit amount projected forward for the next 12 months.
- 2) Include the Medicare premium in the medical expense deduction calculation if the premium is being paid by the tenant. When the Medicare premium is being paid by the state or another entity and the tenant disputes the EIV data, the CDA will verify that the tenant is paying the Medicare premiums themselves. Upon verification, the CDA will document the tenant file with the additional information and the CDA will include the Medicare premium in the tenant's medical expense deduction.

If the tenant disputes the SSA information in the EIV system, or when the tenant reports that they receive SSA benefits but there is no SSA information in the EIV system, the CDA will obtain third party verification by requesting the tenant provide a copy of their benefit or award letter or Proof of Income Letter dated within the last 120 days.

The CDA will not send the tenant to the SSA office if they do not have this information. Instead, the CDA will ask the tenant to request benefit information from SSA using SSA's website or toll-free number, and the CDA will provide the SSA website and phone number to the tenant.

The tenant must provide the Proof of Income Letter to the CDA for use in calculating their income. A copy of the letter will be retained in the tenant's file and the original returned to the tenant for their records.

For all new admissions, including Initial Certifications, the CDA will review the *Income Report* within 90 days after transmission of the move-in certification to TRACS to confirm/validate the income reported by the household.

The CDA will resolve any income discrepancies with the household within 30 days of the *Income Report* date.

The CDA will print and retain the *Income Report* in the tenant file along with any documentation received to resolve income discrepancies, if applicable.

### ***EIV Income Discrepancy Report***

The *Income Discrepancy Report* identifies households where there is a difference of \$2,400 or more annually in the wages, unemployment compensation and/or SS benefit income reported by NDNH and SSA and the wages, unemployment compensation and/or SS benefit income reported in TRACS for the period of income used for the discrepancy analysis. Data in the discrepancy report represents income for past reporting periods. The report identifies tenants whose income may have been under- or over-reported. Families who have not concealed or underreported income may appear on the discrepancy report in some circumstances, such as loss of a job or addition of new family members.

The CDA will investigate and confirm all discrepancies of \$2,400 or more as disclosed on the *Income Discrepancy Report*. The CDA will determine whether or not the income appearing on the report is to be excluded as income. Improper payments includes payments for the incorrect amount, both overpayments and underpayments. The CDA will not reconcile dollar amounts to the penny when resolving discrepancies.

The CDA will print the *Income Discrepancy Report* at the same time the *Income Report* is printed. The CDA will review and resolve any discrepancies in income reported on the *Income Discrepancy Report* with the household at the time of recertification or within 30 days of the *Income Report* date. Any unreporting, underreporting, or over-reporting of income by the tenant and reported on current or historical HUD-50059 must be identified.

The CDA will retain the *Income Discrepancy Report* along with detailed information on the resolution of the reported discrepancy in the tenant file. This includes information on resolution of the discrepancy regardless of whether the discrepancy was found to be valid or invalid.

The CDA will make sure that the information in TRACS agrees with the information on the HUD-50059 in the tenant's file, including retransmission of the current HUD-50059 to correct the TRACS database.

HUD regulations 24 CFR 5.236(2) prohibit the CDA from taking adverse action based solely on EIV information.

### ***EIV No Income Reported on 50059 Report***

The CDA will utilize the *No Income Reported on 50059 Report* to identify tenants who passed the identity match against SSA's records but have zero income represented in the TRACS system. The CDA will re-verify the status of tenants reporting zero income at least quarterly. The CDA will use the *EIV Income Report* to determine if the tenant or any family members have income reported by HHS or SSA.

### ***EIV No Income Reported by HHS or SSA Report***

The CDA will utilize the *No Income Reported by HHS or SSA Report* to identify tenants who passed the identity match against SSA's records but no employment or income information was received from the match against either the SSA or NDNH records. Because no income was reported as a result of the match against SSA and NDNH records does not mean that the tenant(s) does not have income. The CDA will make sure that, at the time of recertification interviews, the right questions are asked so that the tenants are given the opportunity to disclose any income they receive.

### ***EIV New Hires Report***

The CDA will utilize the *New Hires Report* to identify tenants who have started new jobs within the last six months. The information in this report is updated monthly. The CDA will use this report at least quarterly to determine if any of their tenants have started new employment whereby the tenant has not reported a change in income to the CDA between recertifications and/or the new employment was not reported at the time of recertification.

Tenants are required to report changes in income when the household's income cumulatively increases by \$200 or more per month. When the CDA learns, through the *New Hires Report*, that a tenant or a member of the tenant's household has new employment, the CDA will notify the tenant of their responsibility to provide information about such changes. In addition, the CDA will:

- 1) Contact the tenant regarding their new employment.
- 2) Confirm with the tenant that they have a new job and that the employment information in the EIV system is correct.

If the tenant agrees that the employment information in the EIV system is correct, request the tenant provide documents, (e.g., four current, consecutive pay stubs, employment confirmation letter specifying date of hire, rate of pay, number of hours worked each week, pay frequency, for use in determining the tenant's income or, if necessary, request third party verification from the employer.)

If the tenant disputes the employment information in the EIV system, the CDA will obtain third party verification from the employer.

- 3) Process a recertification in accordance with program requirements that includes the employment income.
- 4) Retain the *New Hires Summary Report* in a master "New Hires Report" file along with notations as to the outcome of the contact with the tenant.
- 5) Retain in the tenant file, a copy of the *New Hires Detail Report* for the tenant along with any correspondence with the tenant, third party verifications, etc.

### **Other EIV Reports**

The CDA will access other EIV stand-alone reports that identify potential issues which may impact the family's housing assistance. The CDA will maintain a "Master" file that contains a copy of these reports and documentation and/or notations as indicated in the reports featured below.

### ***EIV Multiple Subsidy Report***

The CDA will use the *Multiple Subsidy Report* at least quarterly to identify any tenants who are being assisted at another location. The CDA will investigate and confirm possible errors that may result in over or underpayment of HUD subsidy as reported on the *Multiple Subsidy Report*. The CDA will follow up with tenants identified on the report where the discrepancy was not identified and resolve at the time of recertification.

The CDA will discuss with the tenant if the results show that the tenant is being assisted at another location. The tenant will be given the opportunity to explain any circumstances relative to their being assisted at another location.

The CDA will follow up with the respective PHA or Owner, if necessary, to confirm that the tenant is being assisted at the other location. Depending on the results of this investigation, the CDA may take action to terminate the tenant's assistance or tenancy.

The CDA will print out and retain a copy of the *Multiple Subsidy Summary Report* in a master "Multiple Subsidy Report" file along with notations as to the outcome of contacts with the tenant and/or PHA or owner.

The CDA will retain in the tenant file, a copy of the *Multiple Subsidy Detail Report* for the tenant, plus any documentation supporting any contacts made or information obtained to determine if a household and/or household member is receiving multiple subsidies as well as documentation to support any action taken if a household and/or a household member is receiving multiple subsidies.

The CDA will note on the printed *Multiple Subsidy Summary Report* if a tenant's multiple subsidies were discussed and resolved at the time of recertification and that no further action is required.

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

HUD's EIV system verifies resident identities against SSA records. These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and Date of Birth (DOB). The CDA will use the EIV's Identity Verification Reports on a monthly basis to improve the availability of income information in EIV.

The CDA will run the *Failed EIV Pre-Screening Report* and the *Failed Verification Report* monthly to clear up any invalid, discrepant or missing information in the TRACS database that was not identified and corrected at the time of recertification. When running these reports, there will not be any employment or income information in the EIV system for tenants who fail either the EIV pre-screening or SSA identity test. Therefore, the CDA will correct any discrepancies found within 30 days from the date of the reports. The CDA will conduct third party verifications to obtain employment and income data for these tenants.

The CDA may also run the *Number of Households Not-Verified Report* if a household is not represented in the EIV system.

#### ***Number of Households Not-Verified Report***

The CDA may run the *Number of households Not-Verified Report* if there is an indication of activity referenced in the EIV system for this report. This report identifies tenants, organized by head of household, who have not yet been verified by SSA. The report is designed to assist the CDA in determining why a household is not represented in the EIV system. The CDA is not required to retained this report.

#### ***Failed EIV Pre-Screening Report***

The *Failed EIV Pre-Screening Report* identifies tenants who fail the EIV pre-screening test because of invalid or missing personal identifiers (SSN, last name or DOB). The tenants on this list will not be sent to SSA from the EIV system for the SSA identity match until the CDA corrects the personal identifier information TRACS.

The CDA must use this report monthly to identify tenants that did not pass the pre-screening test and the reason(s) they did not pass so that the errors can be corrected. The CDA must:

- 1) Upon confirming the information in TRACS is correct, follow up with tenants identified on the report where discrepant personal identifiers were not corrected at the time of recertification.
- 2) Obtain documentation from the tenant to verify any discrepant personal identifiers.
- 3) Correct any discrepant information in the TRACS system.
- 4) Print and retain a copy of the report in a master “Failed EIV Prescreening Report” file. The report must be documented with action taken to resolve invalid or discrepant personal identifiers.

#### *Failed Verification Report*

The *Failed Verification Report* identifies household members who failed the SSA identity test because their personal identifiers (SSN, last name or DOB) do not match SSA’s records as well as identifies deceased household members. The CDA must:

- 1) Use this report monthly to identify those tenants that did not pass the SSA identity verification test and the reason(s) they did not pass so that the errors can be corrected.
- 2) Upon confirming the information in TRACS is correct, follow up with tenants identified on the report where discrepant personal identifiers were not corrected at the time of recertification.
- 3) Confirm with the affected tenant their SSN, DOB and/or last name.
- 4) Obtain documentation from the tenant to verify any discrepant personal identifiers.
- 5) Correct any discrepant information in the TRACS system so that the tenant will be included in the match against SSA and NDNH data.
- 6) Encourage the tenant to contact the SSA to correct any inaccurate data in their databases if the personal identifiers on the HUD-50059 and in TRACS are accurate.
- 7) Print and retain a copy of the report in a master “Failed the SSA Identity Test” file. The report will be documented with action taken to resolve invalid or discrepant personal identifiers. If a tenant’s information was corrected at the time of recertification but the EIV data has not yet been updated, this will be noted on the printed report and no further action will be required.

#### ***EIV Deceased Tenants Report***

HUD’s EIV system identifies tenants who are participating in a HUD subsidized housing program, who are reported by the SSA as being deceased. The CDA will use the *Deceased Tenants Report* at least quarterly to identify those tenants reported by SSA as being deceased. The CDA will investigate and confirm possible errors that may result in over or underpayment of HUD subsidy as reported on the *Deceased Tenants Report*. The CDA will confirm, in writing, with the head-of-household, next of kin or emergency contact person or entity provided by the tenant whether or not the person is deceased.

If the person is deceased, the CDA will update the family composition, and income and allowances, if applicable, on the HUD-50059. In the case of a deceased single member of a household, the CDA will process a Move-out using HUD-50059-A with an effective date of 14 days after the tenant's death or the date the unit was vacated, whichever is earlier.

Discrepant information will be corrected in the TRACS system within 30 days from the date of the *Deceased Tenants Report*.

The CDA will encourage the tenant to contact the SSA to correct any inaccurate data in their databases if the person shown as being deceased in the SSA database is not deceased.

The CDA will retain a copy of the *Deceased Tenants Report* in a master "Deceased Tenants Report" file. The report will be documented with action taken to resolve any discrepancies. All correspondence or action taken for a particular tenant will be retained in the tenant file.

### **Tenant Disputes EIV Accuracy**

There may be legitimate differences between the information provided by the family and EIV-generated information. HUD regulations 24 CFR 5.236(2) prohibit the CDA from taking adverse action based solely on EIV information, unless the tenant family does not dispute the data.

If a tenant disputes EIV income information or it appears that a family may have concealed or underreported income, the CDA will request independent written third-party verification of the income in question. When the CDA determines through file review and independent third-party verification that a family has concealed or underreported income, corrective action will be taken.

If the CDA suspects that a tenant has inaccurately supplied or misrepresented information that affects the tenant's rent or eligibility, the CDA will investigate and document the tenant's statements and any conflicting information the CDA has received. The CDA may obtain additional information from other persons or agencies, and the CDA may take other actions to verify either the tenant's information or the conflicting information. If an intentional misstatement or withholding of information cannot be substantiated through documentation, the CDA will treat the case as an unintentional program violation.

After gathering the documentation:

- 1) The CDA will notify the tenant in writing of the error and identify what information is believed to be incorrect.
- 2) The tenant will have an opportunity, within 10 days, to meet with the CDA and discuss the allegations. The CDA must also inform the tenant that failure to do so may result in the tenant's termination of tenancy. The meeting with the CDA will be with a designated representative who has not been involved in any manner with the review of the allegedly false information. The CDA will provide a written final decision, based solely on the facts presented and discussed at the meeting to the tenant within 10 days of the date of the meeting. The decision will also state the basis for the determination. For tenants with a disability, the notice will be in a form accessible to the tenant, and the meeting will be held in a location accessible to the tenant.

If the tenant meets with the CDA to discuss the error, and the CDA is convinced the tenant's submissions were correct, the CDA will document the file accordingly and close the investigation. If, after meeting with the tenant, the CDA determines that the provision of inaccurate information was an unintentional program violation, the CDA will correct the tenant's rent, if applicable, and provide the tenant with notice of the change in rent. If the tenant is unable to repay the full amount, the CDA will enter into a repayment agreement with the tenant.

If, after the income adjustment, the tenant no longer qualifies for assistance, the tenant may remain in the property subject to making repayments and paying market rent. The CDA will terminate tenancy if the tenant refuses to pay the new monthly rent or refuses to repay the previously overpaid subsidy pursuant to the repayment agreement. The CDA may file a civil action if necessary to recover the funds.

If the CDA determines the tenant knowingly provided inaccurate or incomplete information, and this can be substantiated through documentation, the CDA will pursue the incident as fraud and will report this to the HUD Office of Investigation (OIG). The CDA may also seek a civil action for recovery of subsidy overpayments and/or criminal prosecution.

For all new admissions, including Initial Certifications, the CDA must:

- 1) Review the *Income Report* within 90 days after transmission of the move-in certification to HUD through the TRACS to confirm/validate the income reported by the household.
- 2) Resolve any income discrepancies with the household within 30 days of the *Income Report* date.
- 3) Print and retain the *Income Report* in the tenant file along with any documentation received to resolve income discrepancies, if applicable.

Tenants are obligated to reimburse the CDA if they are charged less rent than required by HUD's rent formula due to underreporting or failure to report income. The tenant is required to reimburse the CDA for the difference between the rent that should have been paid and the rent that was charged. If the CDA determines the tenant unreported or underreported their, the CDA will go back to the time the unreported or underreporting of income started, not to exceed the 5-year limitation that the tenant was receiving assistance described on forms HUD-9887 and HUD-9887-A, and calculate the difference between the amount of rent the tenant should have paid and the amount of rent the tenant was charged. The CDA will notify the tenant of any amount due and their obligation to reimburse the CDA. A record of this calculation will be provided to the tenant and also retained in the tenant's file. Tenants with unreported income that goes back further than 5 years will be reported to the OIG for fraud. The CDA will retain the HUD-50059(s) on file that was in effect during the period(s) that the tenant had unreported or underreported income, along with any supporting documentation, in order to calculate the amount the tenant must reimburse to the CDA. If the CDA does not have this historical information, the CDA will not go back to the tenant for unreported or underreported income.

If an applicant wishes to dispute any EIV information found by the CDA, the applicant must contact their former housing provider directly, in writing, to dispute the information. The CDA is unable to update or delete records in EIV originating from another federal housing provider.

If a tenant or applicant suspects that someone else is using their social security number, the tenant/applicant is responsible for investigating the purposeful or accidental use of their social security number by someone else. The CDA will not contact the Social Security Administration or the Federal Trade Commission on behalf of the applicant or tenant. The CDA does not provide any credit monitoring services, and the CDA will not assist an applicant/tenant in placing a fraud alert with the national credit reporting agencies.

### **Over-Reported Income**

Tenants may report decreases in their income. In these instances, the CDA will process an interim recertification. If, at the time of recertification, there is an *Income Discrepancy Report* reflecting a decrease of \$2,400 or more in wage, unemployment and/or SSI reported in the EIV system and the wage, unemployment and/or SSI in TRACS for the period of income used for the discrepancy analysis, the CDA will investigate the discrepancy.

If, after investigating the discrepancy, the CDA determines that an error was made in calculating the tenant's income (e.g., third party verification not obtained, third party verification received but an error was made in calculating the tenant's income) and the income was over-reported, the CDA will complete corrections to the prior certification(s) affected by the income change. Once the corrections have been made, the CDA will determine the difference between the amount of rent the tenant paid and the rent that the tenant should have paid. The CDA will reimburse the tenant the amount of overpayment of rent.

### **Required Documentation to Demonstrate EIV System Compliance [24 CFR 5.233(a)(2)(i)]**

To demonstrate the CDA's compliance with mandated use of the EIV system as the third party source to verify employment and income information, the CDA will retain EIV reports and documentation in the tenant file as required by HUD.

The Income Report, the Summary Report(s) showing Identity Verification Status as "Verified" and the Income Discrepancy Report(s) and supporting documentation will be retained in the tenant file for the term of tenancy plus three years.

Any tenant provided documentation, or other third party verification of income, received to supplement the SSA or NDNH data will be retained in the tenant file for the term of tenancy plus three years.

Results of the Existing Tenant Search will be retained with the application as follows:

- If applicant is not admitted, the application and search results must be retained for three years.
- If applicant is admitted, the application and search results must be retained in the tenant file for the term of tenancy plus three years.

The master files for the New Hires Report, Identity Verification Reports, Multiple Subsidy Report and Deceased Tenants Report will be retained for three years.

Once the retention period has expired, the CDA will dispose of the data in a manner that will prevent any unauthorized access to personal information (e.g., burn, pulverize, shred, etc.)



## **Security of EIV Information**

The data in the EIV system contains personal information on individual tenants that is covered by the Privacy Act. The CDA will use the EIV system for limited official purposes in connection with the administration of its HUD assisted housing programs. The CDA is required to use the EIV system to verify employment and income at the time of recertification, for compliance purposes, and for reducing administrative and subsidy payment errors.

CDA EIV Users will:

- Adhere to the *EIV Rules of Behavior*
- Not share EIV data with others who do not have a need to know
- Complete security training at least annually

The CDA EIV Coordinator will:

- Monitor access and modify or revoke user rights as appropriate
- Obtain and retain owner approval letters and signed access authorization forms
- Communicate security information, ensure that all EIV Users receive security training at time of implementation and at least annually thereafter, and maintain training records
- Report improper disclosure, unauthorized access, or security breaches to the CDA Executive Director and to HUD

Disclosure requirements apply to Independent Public Auditors (IPAs), used by the CDA to perform financial or single audits. IPA restrictions are as follows:

- 1) Can only access EIV income information within hard copy files and only within the CDA offices;
- 2) Cannot transmit or transport EIV income information in any form;
- 3) Cannot enter EIV income information on any portable media;
- 4) Must sign non-disclosure oaths (Rules of Behavior for Non-system Users) that the EIV income information will be used only for the purpose of the audit; and
- 5) Cannot duplicate EIV income information or re-disclose EIV income information to any user not authorized by Section 435(j)(7) of the Social Security Act to have access to the EIV income data.

CDA staff, service bureau staff, HUD staff, any Contract Administrator Staff, and IPAs, who do not have access to the EIV system, but who view or use EIV data/reports provided by authorized EIV Coordinators or EIV Users in order to perform their job functions, will adhere to the *EIV Rules of Behavior*.

EIV information will not be disclosed to governmental entities not involved in the recertification process used for HUD's assisted housing programs.

Only with written consent of the tenant, will the CDA share EIV data with other individuals who are assisting in the recertification process and who are present during the recertification interview and process. Tenants who require assistance during the recertification process may have a representative present to assist them in their ability to participate in the recertification process; this includes review and explanation of the written third-party income verifications. The CDA will only disclose EIV information to these parties on the tenant who has provided their consent. These parties will not have access to EIV information for any other household members.

Disclosure of EIV information to Service Coordinators is prohibited even if the tenant signs a release of information consent authorizing the Service Coordinator to have access to their file. However, a Service Coordinator, may be present during the interview and assist the tenant with the recertification process if the tenant provides a signed release of information consent authorizing the Service Coordinator to provide such assistance.

EIV users will be required to complete online security training annually. The CDA will maintain sign-in sheets for group trainings and/or EIV security awareness training *Certificates of Completion* if provided.

Only those individuals who have a need to use the EIV system to perform their job function will have access to the EIV system; and those individuals must be certified (approved) by HUD in order to access to the EIV system on CDA property. All individuals who have access to the EIV system will have a valid WASS User ID and password and must use this ID and password for accessing the EIV system.

EIV Coordinators are certified at initial access and annually thereafter. EIV Users are certified at initial access and bi-annually thereafter. If this certification is not made, the CDA will terminate the user's EIV access.

The CDA will implement technical and physical safeguards of EIV information by designating secure areas for both hardcopy and electronic EIV data, keeping printouts locked up, and controlling access to areas containing EIV information. Emails containing EIV data will be limited and such emails will be encrypted.

EIV data that is printed out will not be left unattended. The documents will be retrieved as soon as they are printed and, printed on a restricted printer, copier, or facsimile machine. When faxing EIV data, the CDA will ensure there is someone waiting and ready to retrieve the fax as soon as it is received (printed). Mailing of EIV data may only take place if sent to another CDA office. EIV data will not be mailed to Independent Public Auditor offices.

The CDA will retain EIV reports, master files, and supporting documentation in accordance with HUD requirements.

The CDA will confidentially destroy EIV information as soon as it has served its purpose and per HUD policies including HUD retention periods. Confidential destruction includes shredding, burning, or pulverizing.

Persons who violate EIV security rules and regulations with respect to use and disclosure of income information may be subject to civil or criminal penalties [24 CFR 5.238].

## IMPLEMENTATION OF HOUSE RULE CHANGES

The CDA will give tenants 30 days written notice prior to implementing new house rules.



**EXHIBIT 1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 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; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

“Major life activities” 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 live 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 public housing program

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 definition of 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 allowance for medical expenses, or the allowance for disability assistance expenses. The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the housing program, yet an accommodation is needed to provide equal opportunity.



**Exhibit 2: 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-766 (formerly I-688) Temporary Resident Card annotated “Section 245A” or Section 210”.

Form I-766 (formerly 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*





**EXHIBIT 3: NOTICE OF OCCUPANCY RIGHTS  
UNDER THE VIOLENCE AGAINST WOMEN ACT (Form HUD-5380)**

**The Community Development Authority (CDA) of the City of Madison**<sup>1</sup>

**Notice of Occupancy Rights under the Violence Against Women Act**<sup>2</sup>

**To all Tenants and Applicants**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.<sup>3</sup> The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that **Public Housing, Multifamily Housing, and Section 8 rental assistance** is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

**Protections for Applicants**

If you otherwise qualify for assistance under **Public Housing, Multifamily Housing, or Section 8 rental assistance**, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

**Protections for Tenants**

If you are receiving assistance under **Public Housing, Multifamily Housing, or Section 8 rental assistance**, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under **Public Housing, Multifamily Housing, or Section 8 rental assistance** solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

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<sup>1</sup> The notice uses HP for housing provider but the housing provider should insert its name where HP is used. HUD’s program-specific regulations identify the individual or entity responsible for providing the notice of occupancy rights.

<sup>2</sup> Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

<sup>3</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

### **Removing the Abuser or Perpetrator from the Household**

The CDA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If the CDA chooses to remove the abuser or perpetrator, the CDA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, The CDA must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, the CDA must follow Federal, State, and local eviction procedures. In order to divide a lease, the CDA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

### **Moving to Another Unit**

Upon your request, the CDA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the CDA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- (1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
- (2) You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form, or may accept another written or oral request.
- (3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

The CDA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The CDA's emergency transfer plan provides further information on emergency transfers, and the CDA must make a copy of its emergency transfer plan available to you if you ask to see it.

### **Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

The CDA can, but is not required to, ask you to provide documentation to “certify” that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the CDA must be in writing, and the CDA must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. The CDA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the CDA as documentation. It is your choice which of the following to submit if the CDA asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by the CDA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.

- Any other statement or evidence that the CDA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the CDA does not have to provide you with the protections contained in this notice.

If the CDA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the CDA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the CDA does not have to provide you with the protections contained in this notice.

### **Confidentiality**

The CDA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The CDA must not allow any individual administering assistance or other services on behalf of the CDA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

The CDA must not enter your information into any shared database or disclose your information to any other entity or individual. The CDA, however, may disclose the information provided if:

- You give written permission to the CDA to release the information on a time limited basis.
- The CDA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the CDA or your landlord to release the information.

VAWA does not limit the CDA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

### **Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the CDA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if the CDA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

- 1) Would occur within an immediate time frame, and
- 2) Could result in death or serious bodily harm to other tenants or those who work on the property.

If the CDA can demonstrate the above, the CDA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

### **Other Laws**

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

### **Non-Compliance with The Requirements of This Notice**

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with:

**Department of Housing and Urban Development**

**Milwaukee Field Office**

**310 West Wisconsin Avenue, Suite 950**

**Milwaukee, WI 53203-2289**

### **For Additional Information**

You may view a copy of HUD's final VAWA rule at [www.gpo.gov](http://www.gpo.gov). See [\*\*Violence Against Women Act \(VAWA\) final rule.\*\*](#)

Additionally, the CDA must make a copy of HUD's VAWA regulations available to you if you ask to see them. For questions regarding VAWA, please contact **Lisa Daniels, CDA Programs Analyst, at (608) 267-8709.**

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **Domestic Abuse Intervention Services of Dane County at 1-800-747-4045.**

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact **the Madison Rape Crisis Center at (608) 251-7273**

Victims of stalking seeking help may contact **the Dane County District Attorney's Office (608) 266-4211.**

To report a crime of domestic violence, dating violence, sexual assault, or stalking, contact **the Madison Police Department by dialing 911**



**EXHIBIT 4: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING, AND ALTERNATIVE DOCUMENTATION  
(Form HUD-5382)**

**CERTIFICATION OF  
DOMESTIC VIOLENCE,  
DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING,  
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,  
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: \_\_\_\_\_

2. Name of victim: \_\_\_\_\_

3. Your name (if different from victim's): \_\_\_\_\_

4. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_  
\_\_\_\_\_

5. Residence of victim: \_\_\_\_\_

6. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_  
\_\_\_\_\_

7. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

8. Date(s) and times(s) of incident(s) (if known): \_\_\_\_\_

10. Location of incident(s): \_\_\_\_\_

In your own words, briefly describe the incident(s): _____ _____ _____ _____
--

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.



**EXHIBIT 5: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING (Form HUD-5383)**

**EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

**The requirements you must meet are:**

**(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.**

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

**(2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

1. Name of victim requesting an emergency transfer: \_\_\_\_\_

2. Your name (if different from victim's) \_\_\_\_\_

3. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_  
\_\_\_\_\_

4. Name(s) of other family member(s) who would transfer with the victim: \_\_\_\_\_  
\_\_\_\_\_

5. Address of location from which the victim seeks to transfer: \_\_\_\_\_

6. Address or phone number for contacting the victim: \_\_\_\_\_

7. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

8. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

9. Date(s), Time(s) and location(s) of incident(s): \_\_\_\_\_  
\_\_\_\_\_

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. \_\_\_\_\_

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.  
\_\_\_\_\_  
\_\_\_\_\_

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: \_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

## Exhibit 6: CDA Tenant Consent to Disclose EIV Income Information

\_\_\_\_\_  
*Print name of tenant authorizing release*

\_\_\_\_\_  
*Print name of third party being authorized to view information*

**A. Third party to view and/or discuss information for the sole purpose of recertification assistance:**

- Adult Household Member                       Translator / Interpreter                       Temporarily Absent Family Member  
 Guardian     Service Coordinator                       Individual Assisting Elderly or Disabled Person  
 Other Individual (Include Relationship) \_\_\_\_\_

**B. Enterprise Income Verification (EIV) information to be viewed and/or discussed for the sole purpose of recertification assistance:**

- EIV Income Report                                       EIV No Income Report                                       EIV New Hires Report  
 EIV Income Discrepancy Report                       Other EIV Information \_\_\_\_\_

**C. Third party to view and/or discuss information for the sole purpose of recertification assistance:**

The following federal law prohibits the misuse of the information viewed or discussed pursuant to this consent and certification. Tenants authorized third parties, and HUD or authorized entities employees may be subject to these penalties.

“Whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully – (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.” 18 U.S.C. 1001.

“Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000. 5 U.S.C. 552a(i).

“The Secretary (of Health and Human Services) shall require the imposition of an administrative penalty (up to and including dismissal from employment), and a fine of \$1,000 for each act of unauthorized access to, disclosure of, or use of, information in the National Directory of New Hires established under subsection (i) of this section by any officer or employee of the United States or any other person who knowingly and willfully violates this paragraph.” 42 U.S.C. 653(1).

Federal law also provides penalties for misusing Social Security numbers. 42 U.S.C. 408(a)(6), (7) and (8).

Any applicant or participant affected by negligent disclosure of information may bring civil action for damages and seek other relief, as may be appropriate, against the officer or employee of HUD or the owner responsible for the unauthorized disclosure or improper use.

**D. Certifications:**

I hereby authorize the third party listed on this consent to view and/or discuss the EIV information identified above for the sole purpose of assisting in the recertification of my housing assistance in accordance with the rights afforded to me by the Privacy Act of 1974. I understand further use of such information is prohibited by the Privacy Act and Social Security Act, and that it may not be disclosed, redisclosed, copied, duplicated, or removed from the property for any reason. I also have read and understand the penalties for such misuse of the information, as provided on this form.

\_\_\_\_\_  
*Signature of tenant authorizing release*

\_\_\_\_\_  
*Printed name of tenant authorizing release*

\_\_\_\_\_  
*Date*

I hereby acknowledge and certify that I am permitted to view and discuss tenant information pertaining to the above named individual for the sole purpose of assisting the tenant in the recertification of his/her subsidy. I understand further use of such information is prohibited by the Privacy Act and Social Security Act, and that it may not be disclosed, redisclosed, copied, duplicated, or removed from the property for any reason. I also have read and understand the penalties for such misuse of the information, as provided on this form.

\_\_\_\_\_  
*Signature of tenant authorized third party*

\_\_\_\_\_  
*Printed name of authorized third party*

\_\_\_\_\_  
*Date*



