

**ERIE METROPOLITAN HOUSING AUTHORITY  
ADMISSIONS & CONTINUED OCCUPANCY PLAN  
(ACOP)  
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# **ADMISSIONS AND CONTINUED OCCUPANCY POLICY**

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This Admissions and Continued Occupancy Policy defines the Erie Metropolitan Housing Authority's policies for the operation of the Public Housing Program, incorporating Federal, State and local law. If there is any conflict between this policy and laws or regulations, the laws and regulations will prevail.

## **1.0 FAIR HOUSING**

It is the policy of the Erie Metropolitan Housing Authority to fully comply with all Federal, State and local nondiscrimination laws; the Americans with Disabilities Act; and the U. S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity.

No person shall, on the grounds of race, color, sex, religion, national or ethnic origin, familial status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Erie Metropolitan Housing Authority's programs.

To further its commitment to full compliance with applicable Civil Rights laws, the Erie Metropolitan Housing Authority will provide Federal/State/local information to applicants/tenants of the Public Housing Program regarding discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information will be made available with the application, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made available at the Erie Metropolitan Housing Authority office. In addition, all written information and advertisements will contain the appropriate Equal Opportunity language and logo.

The Erie Metropolitan Housing Authority will assist any family that believes they have suffered illegal discrimination by providing them copies of the appropriate housing discrimination forms. The Erie Metropolitan Housing Authority will also assist them in completing the forms if requested, and will provide them with the address of the nearest HUD office of Fair Housing and Equal Opportunity.

## **2.0 REASONABLE ACCOMODATION**

Sometimes people with disabilities may need a reasonable accommodation in order to take full advantage of the Erie Metropolitan Housing Authority housing programs and related services. When such accommodations are granted, they do not confer special treatment or advantage for the person with a disability; rather, they make the program accessible to them in a way that would otherwise not be possible due to their disability. This policy clarifies how people can request accommodations and the guidelines the Erie

Metropolitan Housing Authority will follow in determining whether it is reasonable to provide a requested accommodation. Because disabilities are not always apparent, the Erie Metropolitan Housing Authority will ensure that all applicants/tenants are aware of the opportunity to request reasonable accommodations.

## **2.1 COMMUNICATION**

Anyone requesting an application will also receive a Request for Reasonable Accommodation form.

Notifications of reexamination, inspection, appointment, or eviction will include information about requesting a reasonable accommodation. Any notification requesting action by the tenant will include information about requesting a reasonable accommodation.

All decisions granting or denying requests for reasonable accommodations will be in writing.

## **2.2 QUESTIONS TO ASK IN GRANTING THE ACCOMMODATION**

- A. Is the requestor a person with disabilities? For this purpose the definition of person with disabilities is different than the definition used for admission. The Fair Housing definition used for this purpose is:

A person with a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. (The disability may not be apparent to others, i.e., a heart condition).

If the disability is apparent or already documented, the answer to this question is yes. It is possible that the disability for which the accommodation is being requested is a disability other than the apparent disability. If the disability is not apparent or documented, the Erie Metropolitan Housing Authority will obtain verification that the person is a person with a disability.

- B. Is the requested accommodation related to the disability? If it is apparent that the request is related to the apparent or documented disability, the answer to this question is yes. If it is not apparent, the Erie Metropolitan Housing Authority will obtain documentation that the requested accommodation is needed due to the disability. The Erie Metropolitan Housing Authority will not inquire as to the nature of the disability.

- C. Is the requested accommodation reasonable? In order to be determined reasonable, the accommodation must meet two criteria:
1. Would the accommodation constitute a fundamental alteration? The Erie Metropolitan Housing Authority's business is housing. If the request would alter the fundamental business that the Erie Metropolitan Housing Authority conducts, that would not be reasonable. For instance, the Erie Metropolitan Housing Authority would deny a request to have the Erie Metropolitan Housing Authority do grocery shopping for a person with disabilities.
  2. Would the requested accommodation create an undue financial hardship or administrative burden? Frequently the requested accommodation costs little or nothing. If the cost would be an undue burden, the Erie Metropolitan Housing Authority may request a meeting with the individual to investigate and consider equally effective alternatives.
- D. Generally the individual knows best what it is they need; however, the Erie Metropolitan Housing Authority retains the right to be shown how the requested accommodation enables the individual to access or use the Erie Metropolitan Housing Authority's programs or services.

If more than one accommodation is equally effective in providing access to the Erie Metropolitan Housing Authority's programs and services, the Erie Metropolitan Housing Authority retains the right to select the most efficient or economic choice.

The cost necessary to carry out approved requests, including requests for physical modifications, will be borne by the Erie Metropolitan Housing Authority if there is no one else willing to pay for the modifications. If another party pays for the modification, the Erie Metropolitan Housing Authority will seek to have the same entity pay for any restoration costs.

If the tenant requests permission to make reasonable physical modifications at their own expense, the Erie Metropolitan Housing Authority will generally approve such request if it does not violate codes or affect the structural integrity of the unit.

Any request for an accommodation that would enable a tenant to materially violate essential lease terms will not be approved, i.e. allowing nonpayment of rent, destruction of property, disturbing the peaceful enjoyment of others, etc.

### **3.0 SERVICES FOR NON-ENGLISH SPEAKING APPLICANTS AND RESIDENTS**

The Erie Metropolitan Housing Authority will endeavor to have bilingual staff or access to people who speak languages other than English in order to assist non-English speaking families.

### **4.0 FAMILY OUTREACH**

The Erie Metropolitan Housing Authority will publicize the availability and nature of the Public Housing Program for extremely low-income, very low and low-income families in a newspaper of general circulation, minority media, and by other suitable means.

To reach people who cannot or do not read the newspapers, the Erie Metropolitan Housing Authority will distribute fact sheets to the broadcasting media and initiate personal contacts with members of the news media and community service personnel. The Erie Metropolitan Housing Authority will also try to utilize public service announcements.

The Erie Metropolitan Housing Authority will communicate the status of housing availability to other service providers in the community and inform them of housing eligibility factors and guidelines so they can make proper referrals for the Public Housing Program.

### **5.0 RIGHT TO PRIVACY**

All adult members of both applicant and tenant households are required to sign HUD Form 9886, Authorization for Release of Information and Privacy Act Notice. The Authorization for Release of Information and Privacy Act Notice states how family information will be released and includes the Federal Privacy Act Statement.

Any request for applicant or tenant information will not be released unless there is a signed release of information request from the applicant or tenant.

### **6.0 REQUIRED POSTINGS**

In each of its offices, the Erie Metropolitan Housing Authority will post, in a conspicuous place and at a height easily read by all persons including persons with mobility disabilities, the following information:

- A. Statement of Policies and Procedures governing Admission and Continued Occupancy



- B. Notice of the status of the waiting list (opened or closed)
- C. A listing of all the developments by name, number of units, units designed with special accommodations, address of all project offices, office hours, telephone numbers, TDD numbers, and Resident Facilities and operation hours
- D. Income Limits for Admission
- E. Excess Utility Charges
- F. Utility Allowance Schedule
- G. Current Schedule of Routine Maintenance Charges
- H. Dwelling Lease
- I. Grievance Procedure
- J. Fair Housing Poster
- K. Equal Opportunity in Employment Poster
- L. Any current Erie Metropolitan Housing Authority Notices

## **7.0 TAKING APPLICATIONS**

Families wishing to apply for the Public Housing Program will be required to complete an application for housing assistance. Applications will be accepted during regular business hours at 322 Warren Street, Sandusky, Ohio. Applications can be mailed to elderly, disabled upon request.

Applications are taken to compile a waiting list. Due to the demand for housing in the Erie Metropolitan Housing Authority's jurisdiction, the Erie Metropolitan Housing Authority may take applications on an open enrollment basis, depending on the length of the waiting list.

Completed applications will be accepted for all applicants and the Erie Metropolitan Housing Authority will verify the information.

The completed application will be dated and time stamped upon its return to the Erie Metropolitan Housing Authority.

The application process will involve two phases. The first phase is the initial application for housing assistance or the pre-application. The pre-application requires the family to provide limited basic information establishing any preferences to which they may be entitled. This first phase results in the family's placement on the waiting list.

Upon receipt of the family's pre-application, the Erie Metropolitan Housing Authority will make a preliminary determination of eligibility. The Erie Metropolitan Housing Authority will notify the family in writing of the date and time of placement on the waiting list. If the Erie Metropolitan Housing Authority determines the family to be ineligible, the notice will state the reasons therefore and will offer the family the opportunity of an informal review of the determination.

The applicant may at any time report changes in their applicant status including changes in family composition, income, or preference factors. The Erie Metropolitan Housing Authority will annotate the applicant's file and will update their place on the waiting list. Confirmation of the changes will be confirmed with the family in writing.

The second phase is the final determination of eligibility, referred to as the full application. The full application takes place when the family nears the top of the waiting list. The Erie Metropolitan Housing Authority will ensure that verification of all preferences, eligibility, suitability and selection factors are current in order to determine the family's final eligibility for admission into the Public Housing Program.

## **8.0 ELIGIBILITY FOR ADMISSION**

### **8.1 INTRODUCTION**

There are five eligibility requirements for admission to public housing: qualifies as a family, has an income within the income limits, meets citizenship/eligible immigrant criteria, provides documentation of Social Security numbers, and signs consent authorization documents. In addition to the eligibility criteria, families must also meet the Erie Metropolitan Housing Authority screening criteria in order to be admitted to public housing.

### **8.2 ELIGIBILITY CRITERIA**

#### **A. Family status.**

- 1. A family with or without children.** Such a family is defined as a group of people related by blood, marriage, adoption or affinity that live together in a stable family relationship.
  - a. Children temporarily absent from the home due to placement in foster care are considered family members.

- b. Unborn children and children in the process of being adopted are considered family members for the purpose of determining bedroom size but are not considered family members for determining income limit.
2. An **elderly family**, which is:
- a. A family whose head, spouse, or sole member is a person who is at least 62 years of age;
  - b. Two or more persons who are at least 62 years of age living together; or
  - c. One or more persons who are at least 62 years of age living with one or more live-in aides.
3. A **near-elderly family**, which is:
- a. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62;
  - b. Two or more persons, who are at least 50 years of age but below the age of 62, living together; or
  - c. One or more persons, who are at least 50 years of age but below the age of 62, living with one or more live-in aides.
4. A **disabled family**, which is:
- a. A family whose head, spouse, or sole member is a person with disabilities;
  - b. Two or more persons with disabilities living together; or
  - c. One or more persons with disabilities living with one or more live-in aides.
5. A **displaced family**, which is a family in which each member, or whose sole member, has been displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.
6. A **remaining member of a tenant family**.

7. A **single person** who is not an elderly or displaced person, a person with disabilities, or the remaining member of a tenant family.

B. Income eligibility

1. To be eligible for admission to developments or scattered-site units that were available for occupancy before 10/1/81, the family's annual income must be within the low-income limit set by HUD. This means the family income cannot exceed 80 percent of the median income for the area.
2. To be eligible for admission to developments or scattered-site units that became available on or after 10/1/81, the family's annual income must be within the very low-income limit set by HUD, unless HUD grants an exception. This means that without a HUD exception, the family income cannot exceed 50 percent of the median income for the area.
3. Normal Eligibility Income limits apply only at admission; however, if after March 24, 2019 in accordance with Section 103 of HOTMA, a family has income greater than 120% of the area median income or 2.4 times the Very Low Income Limit, they will only be permitted to reside in public housing for 24 months from the effective date of the interim or annual recertification which determined the family's over-income status with regard to Section 103 of HOTMA or be subject to increased rent amounts as determined and to be promulgated by HUD. If one year after the initial over-income finding by the PHA, the family's income continues to exceed the over-income limit, the PHA will provide written notification to the family informing the family that their income has exceeded the over-income limit for one (1) year, and if the family income continues to exceed the over-income limit for the next 12 (twelve) consecutive months, the family will be subject to either a higher rent or termination of public housing assistance. If the initial over-income determination was made during an interim reexamination, the PHA must conduct a second interim income reexamination on that date one (1) year later. However, if the PHA discovers through an annual or interim reexamination that a previously over-income family has income that is now below the over-income limits with respect to Section 103 of HOTMA, the family is no longer subject to these provisions. A previously over-income family would be entitled to a new two-year grace period if the family's income once again exceeds the over-income limit.
4. A family may not be admitted to the public housing program from another assisted housing program (e.g., tenant-based Section 8) or from a public housing program operated by another housing authority without meeting the income requirements of the Erie Metropolitan Housing Authority.

5. If the Erie Metropolitan Housing Authority acquires a property for federal public housing purposes, the families living there must have incomes within the low-income limit in order to be eligible to remain as public housing tenants.
6. Income limit restrictions do not apply to families transferring within our Public Housing Program.

C. Citizenship/Eligibility Status

1. To be eligible each member of the family must be a citizen, national, or a non-citizen who has eligible immigration status under one of the categories set forth in Section 214 of the Housing and Community Development Act of 1980 (see 42 U.S.C. 1436a(a)).
2. Family eligibility for assistance.
  - a. A family shall not be eligible for assistance unless every member of the family residing in the unit is determined to have eligible status, with the exception noted below.
  - b. Despite the ineligibility of one or more family members, a mixed family may be eligible for one of three types of assistance. (See Section 13.6 for calculating rents under the non-citizen rule)
  - c. A family without any eligible members and receiving assistance on June 19, 1995 may be eligible for temporary deferral of termination of assistance.

D. Social Security Number Documentation

To be eligible, all family members 6 years of age and older must provide a Social Security number or certify that they do not have one.

E. Signing Consent Forms

1. In order to be eligible, each member of the family who is at least 18 years of age, and each family head and spouse regardless of age, shall sign one or more consent forms.
2. The consent form must contain, at a minimum, the following:
  - a. A provision authorizing HUD or the Erie Metropolitan Housing Authority to obtain from State Wage Information Collection

Agencies (SWICAs) any information or materials necessary to complete or verify the application for participation or for eligibility for continued occupancy; and

- b. A provision authorizing HUD or the Erie Metropolitan Housing Authority to verify with previous or current employers income information pertinent to the family's eligibility for or level of assistance;
- c. A provision authorizing HUD to request income information from the IRS and the SSA for the sole purpose of verifying income information pertinent to the family's eligibility or level of benefits; and
- d. A statement that the authorization to release the information requested by the consent form expires 15 months after the date the consent form is signed.

#### F. Occupancy by Police Officers

For the purpose of increasing security for residents of a public housing development, Erie Metropolitan Housing Authority may allow police officers who would not otherwise be eligible for occupancy in public housing, to reside in a public housing dwelling unit. One unit may be designated for this purpose in the Bayshore Tower development; the resident police officer must comply with the same terms and conditions of the lease with the exception of the one full year occupancy requirement. The lease for the resident police officer shall run month to month.

### 8.3 *SUITABILITY*

- A. Applicant families will be evaluated to determine whether, based on their recent behavior, such behavior could reasonably be expected to result in noncompliance with the public housing lease. The Erie Metropolitan Housing Authority will look at past conduct as an indicator of future conduct. If no charges of bad conduct or criminal activity have been made within 3 years, the applicant will be considered for the waiting list. Emphasis will be placed on whether a family's admission could reasonably be expected to have a detrimental effect on the development environment, other tenants, Erie Metropolitan Housing Authority employees, or other people residing in the immediate vicinity of the property. Otherwise eligible families will be denied admission if they fail to meet the suitability criteria.
- B. The Erie Metropolitan Housing Authority will consider objective and reasonable aspects of the family's background, including the following:

1. History of meeting financial obligations, especially rent; care will be taken to establish whether or not the applicants financial obligations, especially rent were due to his/her being low income.
  2. Ability to maintain (or with assistance would have the ability to maintain) their housing in a decent and safe condition based on living or housekeeping habits and whether such habits could adversely affect the health, safety, or welfare of other tenants;
  3. History of criminal activity by any household member involving crimes of physical violence against persons or property and any other criminal activity including drug-related criminal activity that would adversely affect the health, safety, or well-being of other tenants or staff or cause damage to the property;
  4. History of disturbing neighbors or destruction of property;
  5. Having committed fraud in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from; and
  6. History of abusing alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment by others.
- C. The Erie Metropolitan Housing Authority will ask applicants to provide information demonstrating their ability to comply with the essential elements of the lease. The Erie Metropolitan Housing Authority will verify the information provided. Such verification may include but may not be limited to the following:
1. A credit check of the head, spouse and co-head;
  2. A rental history check of all adult family members;
  3. A criminal background check on all adult household members, including live-in aides. This check will be made through State or local law enforcement or court records in those cases where the household member has lived in the local jurisdiction for the last three years. Where the individual has lived outside the local area, the Erie Metropolitan Housing Authority may contact law enforcement agencies where the individual had lived or request a check through the FBI's National Crime Information Center (NCIC);
  4. A home visit. The home visit provides the opportunity for the family to

demonstrate their ability to maintain their home in a safe and sanitary manner. This inspection considers cleanliness and care of rooms, appliances. The inspection may also consider any evidence of criminal activity; and

5. A check of the State's lifetime sex offender registration program for each adult household member, including live-in aides. No individual registered with this program will be admitted to public housing.

#### **8.4 GROUNDINGS FOR DENIAL**

The Erie Metropolitan Housing Authority is not required or obligated to assist applicants who:

- A. Do not meet any one or more of the eligibility criteria;
- B. Do not supply information or documentation required by the application process;
- C. Have failed to respond to a written request for information or a request to declare their continued interest in the program;
- D. Have a history of not meeting financial obligations, especially rent;
- E. Do not have the ability to maintain (with assistance) their housing in a decent and safe condition where such habits could adversely affect the health, safety, or welfare of other tenants;
- F. Have a history of criminal activity by any household member involving crimes of physical violence against persons or property and any other criminal activity including drug-related criminal activity that would adversely affect the health, safety, or well-being of other tenants or staff or cause damage to the property;
- G. Have a history of disturbing neighbors or destruction of property;
- H. Currently owes rent or other amounts to any housing authority in connection with their public housing or Section 8 programs;
- I. Have committed fraud, bribery or any other corruption in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from;
- J. Were evicted from assisted housing within three years of the projected date of admission because of drug-related criminal activity involving the personal use or possession for personal use;



- K. Were evicted from assisted housing within five years of the projected date of admission because of drug-related criminal activity involving the illegal manufacture, sale, distribution, or possession with the intent to manufacture, sell, distribute a controlled substance as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802;
- L. Are illegally using a controlled substance or are abusing alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- M. Have engaged in or threatened abusive or violent behavior towards any Erie Metropolitan Housing Authority staff or residents;
- N. Have a household member who has ever been evicted from public housing;
- O. Have a family household member who has been terminated under the certificate or voucher program;

**Denied for Life:** If any family member has been convicted of manufacturing or producing methamphetamine (speed) in a public housing development or in a Section 8 assisted property;

**Denied for Life:** Has a lifetime registration under a State sex offender registration program.

## 8.5 *INFORMAL REVIEW*

- A. If the Erie Metropolitan Housing Authority determines that an applicant does not meet the criteria for receiving public housing assistance, the Erie Metropolitan Housing Authority will promptly provide the applicant with written notice of the determination. The notice must contain a brief statement of the reason(s) for the decision and state that the applicant may request an informal review of the decision within 10 business days of the denial. The Erie Metropolitan Housing Authority will describe how to obtain the informal review.

The informal review may be conducted by any person designated by the Erie Metropolitan Housing Authority, other than a person who made or approved the decision under review or subordinate of this person. The applicant must be given the opportunity to present written or oral objections to the Erie Metropolitan Housing Authority's decision. The Erie Metropolitan Housing Authority must notify the applicant of the final decision within 14 calendar days after the informal review, including a brief statement of the reasons for the final decision.

- B. The participant family may request that the Erie Metropolitan Housing Authority provide for an Informal Hearing after the family has notification of an INS decision on their citizenship status on appeal, or in lieu of request of appeal to the INS. The participant family must make this request within 30 days of receipt of the Notice of Denial or Termination of Assistance, or within 30 days of receipt of the INS appeal decision.

For the participant families, the Informal Hearing Process above will be utilized with the exception that the participant family will have up to 30 days of receipt of the Notice of Denial or Termination of Assistance, or of the INS appeal decision.

## **9.0 MANAGING THE WAITING LIST**

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

Opening of the waiting list will be announced with a public notice stating that applications for public housing will again be accepted. The public notice will state where, when, and how to apply. The notice will be published in a local newspaper of general circulation and also by any available minority media. The public notice will state any limitations to who may apply. The notice will also state the closing date and for what bedroom sizes.

The notice will state that applicants already on waiting lists for other housing programs must apply separately for this program and such applicants will not lose their place on other waiting lists when they apply for public housing. The notice will include the Fair Housing logo and slogan and will be in compliance with Fair Housing requirements.

### ***9.2 ORGANIZATION OF THE WAITING LIST***

The waiting list will be maintained in accordance with the following guidelines:

- A. The application will be a permanent file;
- B. All applications will be maintained in order of bedroom size, preference, and then in order of date and time of application; and
- C. Any contacts between the Erie Metropolitan Housing Authority and the applicant will be documented in the applicant file.

### ***9.3 FAMILIES NEARING THE TOP OF THE WAITING LIST***

When a family is at the top of the waiting list, the family will be invited to an interview and the verification process will begin. It is at this point in time that the family's waiting list preference will be verified. If the family no longer qualifies to be near the top of the list, the family's name will be returned to the appropriate spot on the waiting list. The Erie Metropolitan Housing Authority must notify the family in writing of this determination and give the family the opportunity for an informal review.

Once the preference has been verified, the family will complete a full application, present Social Security number information, citizenship/eligible immigrant information, and sign the Consent for Release of Information forms.

#### **9.4 *PURGING THE WAITING LIST***

The Erie Metropolitan Housing Authority will update and purge its waiting list at least annually to ensure that the pool of applicants reasonably represents the interested families for whom the Erie Metropolitan Housing Authority has current information, i.e. applicant's address, family composition, income category, and preferences.

#### **9.5 *REMOVAL OF APPLICANTS FROM THE WAITING LIST***

The Erie Metropolitan Housing Authority will not remove an applicant's name from the waiting list unless:

- A. The applicant requests in writing that the name be removed;
- B. The applicant fails to respond to a written request for information or a request to declare their continued interest in the program; or
- C. The applicant does not meet either the eligibility or suitability criteria for the program.

#### **9.6 *MISSED APPOINTMENTS***

All applicants who fail to keep a scheduled appointment with the Erie Metropolitan Housing Authority will be sent a notice of termination of the process for eligibility.

The Erie Metropolitan Housing Authority will allow the family to reschedule for good cause. Generally, no more than one opportunity will be given to reschedule without good cause, and no more than two opportunities will be given for good cause. When good cause exists for missing an appointment, the Erie Metropolitan Housing Authority will work closely with the family to find a more suitable time. Applicants will be offered the right to an informal review before being removed from the waiting list.

#### **9.7 *NOTIFICATION OF NEGATIVE ACTIONS***

Any applicant whose name is being removed from the waiting list will be notified by the Erie Metropolitan Housing Authority, in writing, that they have ten (10) calendar days from the date of the written correspondence to present mitigating circumstances or request an informal review. The letter will also indicate that their name will be removed from the waiting list if they fail to respond within the timeframe specified. The Erie Metropolitan Housing Authority system of removing applicant names from the waiting list will not violate the rights of persons with disabilities. If an applicant claims that their failure to respond to a request for information or updates was caused by a disability, the Erie Metropolitan Housing Authority will verify that there is in fact a disability and the disability caused the failure to respond, and provide a reasonable accommodation. An example of a reasonable accommodation would be to reinstate the applicant on the waiting list based on the date and time of the original application.

## **10.0 TENANT SELECTION AND ASSIGNMENT PLAN**

### **10.1 PREFERENCES**

The Erie Metropolitan Housing Authority will select families based on the following preferences within each bedroom size category:

- A. Victim of Domestic Violence (which includes domestic violence, dating violence, sexual assault, or stalking) [7 points]
- B. Displaced by governmental action [20 points]
- C. Working family/Disabled family [4 points]
- D. Veteran [7 points]

Based on the above preferences, families' preference points will accumulate to determine the sequence in which families will be offered housing. Families with the same amount of accumulated preference points will use the earliest date and time of application to determine the sequence in which families will be offered housing.

**Building Designed for the Elderly and Disabled:** Preference will be given to elderly and disabled families. If there are no elderly or disabled families on the list, preference will then be given to near-elderly families. If there are no near-elderly families on the waiting list, units will be offered to families who qualify for the appropriate bedroom size using these priorities. All such families will be selected from the waiting list using the preferences as outlined above.

**Accessible Units:** Accessible units will be first offered to families who may benefit from the accessible features. Applicants for these units will be selected utilizing the same preference system as outlined above. If there are no applicants who would benefit from

the accessible features, the units will be offered to other applicants in the order that their names come to the top of the waiting list. Such applicants, however, must sign a release form stating they will accept a transfer (at their own expense) if, at a future time, a family requiring an accessible feature applies. Any family required to transfer will be given a 30-day notice.

**10.2 ASSIGNMENT OF BEDROOM SIZES**

The following guidelines will determine each family’s unit size without overcrowding or over-housing:

Number of Bedrooms	Number of Persons	
	Minimum	Maximum
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8

These standards are based on the assumption that each bedroom will accommodate no more than two (2) persons. Zero bedroom units will only be assigned to one-person families.

In determining bedroom size, the Erie Metropolitan Housing Authority will include the presence of children to be born to a pregnant woman, children who are in the process of being adopted, children whose custody is being obtained, children who are temporarily away at school, or children who are temporarily in foster-care.

In addition, the following considerations may be taken in determining bedroom size:

- A. Children of the same sex will not share a bedroom except children of the opposite sex; both under the age of 5 may share a bedroom.
- B. Adults and children will not be required to share a bedroom.
- C. Foster – adults and/or foster - children will not be required to share a bedroom with family members.
- D. Live-in aides will get a separate bedroom.

- E. Children of the same sex will share a bedroom unless there is a seven or greater year difference in age.

Exceptions to normal bedroom size standards include the following:

- A. Units smaller than assigned through the above guidelines – A family may request a smaller unit size than the guidelines allow. The Erie Metropolitan Housing Authority will allow the smaller size unit so long as generally no more than two (2) people per bedroom are assigned. In such situations, the family will sign a certification stating they understand they will be ineligible for a larger size unit for 1 year or until the family size changes, whichever may occur first.
- B. Units larger than assigned through the above guidelines – A family may request a larger unit size than the guidelines allow. The Erie Metropolitan Housing Authority will allow the larger size unit if the family provides a verified medical need that the family be housed in a larger unit.
- C. If there are no families on the waiting list for a larger size, smaller families may be housed if they sign a release form stating they will transfer (at the family’s own expense) to the appropriate size unit when an eligible family needing the larger unit applies. The family transferring will be given a 30-day notice before being required to move.
- D. Larger units may be offered in order to improve the marketing of a development suffering a high vacancy rate.

### ***10.3 SELECTION FROM THE WAITING LIST***

The Erie Metropolitan Housing Authority shall follow the statutory requirement that at least 40% of newly admitted families in any fiscal year be families whose annual income is at or below 30% of the area median income. To insure this requirement is met we shall quarterly monitor the incomes of newly admitted families and the incomes of the families on the waiting list. If it appears that the requirement to house extremely low-income families will not be met, we will skip higher income families on the waiting list to reach extremely low-income families.

If there are not enough extremely low-income families on the waiting list we will conduct outreach on a non-discriminatory basis to attract extremely low-income families to reach the statutory requirement.

#### **10.4 DECONCENTRATION POLICY**

It is Erie Metropolitan Housing Authority's policy to provide for deconcentration of poverty and encourage income mixing by bringing higher income families into lower income developments and lower income families into higher income developments. Toward this end, we will skip families on the waiting list to reach other families with a lower or higher income. We will accomplish this in a uniform and non-discriminating manner.

The Erie Metropolitan Housing Authority will affirmatively market our housing to all eligible income groups. Lower income residents will not be steered toward lower income developments and higher income people will not be steered toward higher income developments.

Prior to the beginning of each fiscal year, we will analyze the income levels of families residing in each of our developments, the income levels of census tracts in which our developments are located, and the income levels of the families on the waiting list. Based on this analysis, we will determine the level of marketing strategies and deconcentration incentives to implement.

#### **10.5 DECONCENTRATION INCENTIVES**

The Erie Metropolitan Housing Authority may offer one or more incentives to encourage applicant families whose income classification would help to meet the deconcentration goals of a particular development. Various incentives may be used at different times, or under different conditions, but will always be provided in a consistent and nondiscriminatory manner.

#### **10.6 OFFER OF A UNIT**

When the Erie Metropolitan Housing Authority discovers that a unit will become available, we will contact the first family on the waiting list who has the highest priority for this type of unit or development and whose income category would help to meet the deconcentration goal and/or the income targeting goal.

The Erie Metropolitan Housing Authority will contact the family first by telephone to make the unit offer. If the family cannot be reached by telephone, the family will be notified of a unit offer via first class mail. The family will be given five (5) business days from the date the letter was mailed to contact the Erie Metropolitan Housing Authority regarding the offer.

The family will be offered the opportunity to view the unit. After the opportunity to view the unit, the family will have two (2) business days to accept or reject the unit. This verbal offer and the family's decision must be documented in the tenant file. If the family

rejects the offer of the unit, the Erie Metropolitan Housing Authority will send the family a letter documenting the offer and the rejection.

#### **10.7 REJECTION OF UNIT**

If in making the offer to the family the Erie Metropolitan Housing Authority skipped over other families on the waiting list in order to meet their deconcentration goal or offered the family any other deconcentration incentive and the family rejects the unit, the family will not lose their place on the waiting list and will not be otherwise penalized.

If the Erie Metropolitan Housing Authority did not skip over other families on the waiting list to reach this family, did not offer any other deconcentration incentive, and the family rejects the unit without good cause, the family will forfeit their application's date and time. The family will keep their preferences, but the date and time of application will be changed to the date and time the unit was rejected.

If the family rejects with good cause any unit offered, they will not lose their place on the waiting list. Good cause includes reasons related to health, proximity to work, school, and childcare (for those working or going to school). The family will be offered the right to an informal review of the decision to alter their application status.

#### **10.8 ACCEPTANCE OF UNIT**

The family will be required to sign a lease that will become effective no later than three (3) business days after the date of acceptance or the business day after the day the unit becomes available, whichever is later.

Prior to signing the lease all families (head of household) and other adult family members will be required to attend the Lease and Occupancy Orientation when they are initially accepted for occupancy. The family will not be housed if they have not attended the orientation. Applicants who provide prior notice of an inability to attend the orientation will be rescheduled. Failure of an applicant to attend the orientation, without good cause, may result in the cancellation of the occupancy process.

The applicant will be provided a copy of the lease, the grievance procedure, utility allowances, utility charges, the current schedule of routine maintenance charges, and a request for reasonable accommodation form. These documents will be explained in detail. The applicant will sign a certification that they have received these documents and that they have reviewed them with Housing Authority personnel. The certification will be filed in the tenant's file.

The signing of the lease and the review of financial information are to be privately handled. The head of household and all adult family members will be required to execute the lease prior to admission. One executed copy of the lease will be furnished to the head of household and the Erie Metropolitan Housing Authority will retain the original



executed lease in the tenant's file. A copy of the grievance procedure will be given to the resident.

The family will pay a security deposit at the time of lease signing. The security deposit will be equal to 150 for Scattered Sites and \$50.00 for Bayshore Tower.

In exceptional situations, the Erie Metropolitan Housing Authority reserves the right to allow a new resident to pay their security deposit in up to three (3) payments. One third shall be paid in advance, one third with the second rent payment, and one-third with the third rent payment. This shall be at the sole discretion of the Housing Authority.

In the case of a move within public housing, the security deposit for the first unit will be transferred to the second unit. Additionally, if the security deposit for the second unit is greater than that for the first, the difference will be collected from the family. Conversely, if the security deposit is less, the difference will be refunded to the family.

In the event there are costs attributable to the family for bringing the first unit into condition for re-renting, the family shall be billed for these charges.

## **11.0 INCOME, EXCLUSIONS FROM INCOME, AND DEDUCTIONS FROM INCOME**

To determine annual income, the Erie Metropolitan Housing Authority counts the income of all family members, excluding the types and sources of income that are specifically excluded. Once the annual income is determined, the Erie Metropolitan Housing Authority subtracts all allowable deductions (allowances) to determine the Total Tenant Payment. Since there is no minimum income requirement, families who report zero income are required as instructed to complete a written certification regarding their means of basic subsistence, the family's accessible resources, and the family's requirement to report changes.

### **11.1 INCOME**

Annual income means all amounts, food stamps:

- A. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member; or
- B. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- C. Are not specifically excluded from annual income.

Annual income includes, but is not limited to:

- A. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
- B. The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession is included in income, except to the extent the withdrawal is a reimbursement of cash or assets invested in the operation by the family.
- C. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness are not used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from an investment is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income includes the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.
- D. The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount. (However, deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts are excluded.)
- E. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay. (However, lump sum additions such as insurance payments from worker's compensation are excluded.)
- F. Welfare assistance.
  - 1. If the amount of welfare is reduced due to an act of fraud by a family member or because of any family member's failure to comply with requirements to participate in an economic self-sufficiency program or work activity, the amount of rent required to be paid by the family will not be decreased. In such cases, the amount of income attributable to the family will include what the family would have received had they complied with the welfare requirements and/or had not

committed an act of fraud.

2. If the amount of welfare assistance is reduced as a result of a lifetime time limit, the reduced amount will not be counted as income.
- G. Periodic and determinable allowances, such as alimony, child support payments, residing in the dwelling.
  - H. All regular pay, special pay, and allowances of a member of the Armed Forces. (Special pay to a member exposed to hostile fire is excluded.)

## ***11.2 ANNUAL INCOME EXCLUSIONS***

Annual income does not include the following:

- A. Income from employment of children (including foster children) under the age of 18 years;
- B. Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
- C. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses;
- D. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- E. Income of a live-in aide;
- F. The full amount of student financial assistance paid directly to the student or to the educational institution;
- G. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- H. Financial Assistance received for mandatory education fees and charges (in addition to tuition, such as student service fees, student association fees, student activities fees, and laboratory fees)(PIH Notice 2016-05; 24 CFR 5.609(b)(9); PIH Notice 2015-21);
- I. The amounts received from the following programs:

1. Amounts received under training programs funded by HUD;
2. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
3. Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and that are made solely to allow participation in a specific program;
4. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the Housing Authority or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiative's coordination. No resident may receive more than one such stipend during the same period of time;
5. Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program;
6. Temporary, nonrecurring or sporadic income (including gifts);
7. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
8. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
9. Adoption assistance payments in excess of \$480 per adopted child;
10. For family members who enrolled in certain training programs prior to 10/1/99, the earnings and benefits resulting from the participation if the program provides employment training and supportive services in accordance with the Family Support Act of 1988, Section 22 of the 1937

Act (42 U.S.C. 1437t), or any comparable Federal, State, or local law during the exclusion period. For purposes of this exclusion the following definitions apply:

- a. Comparable Federal, State or local law means a program providing employment training and supportive services that:
    - i. Is authorized by a Federal, State or local law;
    - ii. Is funded by the Federal, State or local government;
    - iii. Is operated or administered by a public agency; and
    - iv. Has as its objective to assist participants in acquiring employment skills.
  - b. Exclusion period means the period during which the family member participates in a program described in this section, plus 18 months from the date the family member begins the first job acquired by the family member after completion of such program that is not funded by public housing assistance under the 1937 Act. If the family member is terminated from employment with good cause, the exclusion period shall end.
  - c. Earnings and benefits mean the incremental earnings and benefits resulting from a qualifying employment training program or subsequent job.
11. The incremental earnings due to employment during the 12-month period following date of hire shall be excluded. This exclusion (paragraph 11) will not apply for any family who concurrently is eligible for exclusion #10. Additionally, this exclusion is only available to the following families:
- a. Families whose income increases as a result of employment of a family member who was previously unemployed for one or more years.
  - b. Families whose income increases during the participation of a family member in any family self-sufficiency program.
  - c. Families who are or were, within 6 months, assisted under a State TANF program.
12. Deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts;

13. Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
14. Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
15. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits. These exclusions include:
  - a. The value of the allotment of food stamps
  - b. Payments to volunteers under the Domestic Volunteer Services Act of 1973
  - c. Payments received under the Alaska Native Claims Settlement Act
  - d. Income from sub-marginal land of the U.S. that is held in trust for certain Indian tribes
  - e. Payments made under HHS's Low-Income Energy Assistance Program
  - f. Payments received under the Job Training Partnership Act
  - g. Income from the disposition of funds of the Grand River Band of Ottawa Indians
  - h. The first \$2000 per capita received from judgment funds awarded for certain Indian claims
  - i. Amount of scholarships awarded under Title IV including Work-Study
  - j. Payments received under the Older Americans Act of 1965
  - k. Payments from Agent Orange Settlement
  - l. Payments received under the Maine Indian Claims Act
  - m. The value of child care under the Child Care and Development Block Grant Act of 1990
  - n. Earned income tax credit refund payments

- o. Payments for living expenses under the Americorps Program
- p. Additional income exclusions provided by and funded by the Erie Metropolitan Housing Authority

The Erie Metropolitan Housing Authority will not provide exclusions from income in addition to those already provided for by HUD.

J. Self-sufficiency incentives—Disallowance of increase in annual income. (PIH Notice 2016-05; 960.255)

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

*Baseline income.* The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person who is a member of a [qualified family](#).

*Disallowance.* Exclusion from annual income.

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

*Qualified family.* A family residing in public housing:

- (i) Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;
- (ii) Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or
- (iii) Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the [Social Security Act](#), as determined by the PHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance - provided that the total amount over a six-month period is at least \$500.

**(b) Disallowance of earned income -**

**(1) Initial 12-month exclusion.** During the 12-month period beginning on the date on which a member of a [qualified family](#) is first employed or the

family first experiences an increase in annual income attributable to employment, the PHA must exclude from the annual income (as defined in § 5.609 of this title) of a [qualified family](#) any increase in the income of the family member as a result of employment over the baseline income of that family member.

**(2) Phase-in of rent increase.** Upon the expiration of the 12-month period defined in [paragraph \(b\)\(1\)](#) of this section and for the subsequent 12-month period, the PHA must exclude from the annual income of a [qualified family](#) at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

**(3) Maximum 2-year disallowance.** The disallowance of increased income of an individual family member as provided in paragraph (b)(1) or (b)(2) of this section is limited to a lifetime 24-month period. It applies for a maximum of 12 months for disallowance under [paragraph \(b\)\(1\)](#) of this section and a maximum of 12 months for disallowance under [paragraph \(b\)\(2\)](#) of this section, during the 24-month period starting from the initial exclusion under [paragraph \(b\)\(1\)](#) of this section.

**(4) Effect of changes on currently participating families.** Families eligible for and participating in the disallowance of earned income under this section prior to May 9, 2016 will continue to be governed by this section in effect as it existed immediately prior to that date.

**(c) Inapplicability to admission.** The disallowance of increases in income as a result of employment under this section does not apply for purposes of admission to the program (including the determination of income eligibility and income targeting).

- Once a family member is determined to be eligible for the EID, the 24-calendar month period starts;
- If the family member discontinues the employment that initially qualified the family for the EID, the 24-calendar month period continues;
- EID benefit is limited to a lifetime 24-month period for the qualifying family member;
- At the end of the 24 months, the EID ends regardless of how many months were used.

### **11.3 DEDUCTIONS FROM ANNUAL INCOME**

The following deductions will be made from annual income:

- A. \$480 for each dependent;



- B. \$400 for any elderly family or disabled family;
- C. For any family that is not an elderly or disabled family but has a member (other than the head or spouse) who is a person with a disability, disability assistance expenses in excess of 3% of annual income. This allowance may not exceed the employment income received by family members who are 18 years of age or older as a result of the assistance to the person with disabilities.
- D. For any elderly or disabled family:
  - 1. That has no disability assistance expenses, an allowance for medical expenses equal to the amount by which the medical expenses exceed 3% of annual income;
  - 2. That has disability expenses greater than or equal to 3% of annual income, an allowance for disability assistance expenses computed in accordance with paragraph C, plus an allowance for medical expenses that equal the family's medical expenses;
  - 3. That has disability assistance expenses that are less than 3% of annual income, an allowance for combined disability assistance expenses and medical expenses that is equal to the total of these expenses less 3% of annual income.
- E. Child care expenses.

## **12.0 VERIFICATION**

The Erie Metropolitan Housing Authority will verify information related to waiting list preferences, eligibility, admission, and level of benefits prior to admission. Periodically during occupancy, items related to eligibility and rent determination shall also be reviewed and verified. Income, assets, and expenses will be verified, as well as disability status, need for a live-in aide and other reasonable accommodations; full time student status of family members 18 years of age and older; Social Security numbers; and citizenship/eligible non-citizen status. Age and relationship will only be verified in those instances where needed to make a determination of level of assistance.

### **12.1 ACCEPTABLE METHODS OF VERIFICATION**

Age, relationship, U.S. citizenship, and Social Security numbers will generally be verified with documentation provided by the family. For citizenship, the family's certification will be accepted. (Or for citizenship documentation such as listed below will be required.) Verification of these items will include photocopies of the Social Security

cards and other documents presented by the family, the INS SAVE approval code, and forms signed by the family.

Other information will be verified by third party verification. This type of verification includes written documentation with forms sent directly to and received directly by a source, not passed through the hands of the family. This verification may also be direct contact with the source, in person or by telephone. It may also be a report generated by a request from the Erie Metropolitan Housing Authority or automatically by another government agency, i.e. the Social Security Administration. Verification forms and reports received will be contained in the applicant/tenant file. Oral third party documentation will include the same information as if the documentation had been written, i.e. name date of contact, amount received, etc.

When third party verification cannot be obtained, the Erie Metropolitan Housing Authority will accept documentation received from the applicant/tenant. Hand-carried documentation will be accepted if the Erie Metropolitan Housing Authority has been unable to obtain third party verification in a 4-week period of time. Photocopies of the documents provided by the family will be maintained in the file.

When neither third party verification nor hand-carried verification can be obtained, the Erie Metropolitan Housing Authority will accept a notarized statement signed by the head spouse or co-head. Such documents will be maintained in the file.

**12.1.1 Family Declaration of Assets under \$5,000**

EMHA reserves the option to implement the ability to accept a family declaration of that it has total net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration. **If implemented**, EMHA must initially verify the asset value through third-party verification, and also must obtain third-party verification at least every three years thereafter. All family members 18 years of age and older must sign the family’s declaration of total assets. Whenever a family member is added, EMHA must obtain third-party verification of that family member’s assets. (PIH Notice 2016-05; 24 CFR 960.259, 982.516)

**12.2 TYPES OF VERIFICATION**

The chart below outlines the factors that may be verified and gives common examples of the verification that will be sought. To obtain written third party verification, the Erie Metropolitan Housing Authority will send a request form to the source along with a release form signed by the applicant/tenant via first class mail.

Verification Requirements for Individual Items		
<b>Item to Be Verified</b>	<b>3<sup>rd</sup> party verification</b>	<b>Hand-carried verification</b>
<b>General Eligibility Items</b>		

<b>Verification Requirements for Individual Items</b>		
<b>Item to Be Verified</b>	<b>3<sup>rd</sup> party verification</b>	<b>Hand-carried verification</b>
Social Security Number	Letter from Social Security, electronic reports	Social Security card
Citizenship	N/A	Signed certification, voter's registration card, birth certificate, etc.
Eligible immigration status	INS SAVE confirmation #	INS card
Disability	Letter from medical professional, SSI, etc.	Proof of SSI or Social Security disability payments
Full time student status (if >18)	Letter from school	For high school students, any document evidencing enrollment
Need for a live-in aide	Letter from doctor or other professional knowledgeable of condition	N/A
Child care costs	Letter from care provider	Bills and receipts
Disability assistance expenses	Letters from suppliers, care givers, etc.	Bills and records of payment
Medical expenses	Letters from providers, prescription record from pharmacy, medical professional's letter stating assistance or a companion animal is needed	Bills, receipts, records of payment, dates of trips, mileage log, receipts for fares and tolls
<b>Value of and Income from Assets</b>		
Savings, checking accounts	Letter from institution	Passbook, most current statements
CDS, bonds, etc.	Letter from institution	Tax return, information brochure from institution, the CD, the bond
Stocks	Letter from broker or holding company	Stock or most current statement, price in newspaper

Verification Requirements for Individual Items		
Item to Be Verified	3 <sup>rd</sup> party verification	Hand-carried verification or through Internet
Real property	Letter from tax office, assessment, etc.	Property tax statement (for current value), assessment, records or income and expenses, tax return
Personal property	Assessment, bluebook, etc.	Receipt for purchase, other evidence of worth
Cash value of life insurance policies	Letter from insurance company	Current statement
Assets disposed of for less than fair market value	N/A	Original receipt and receipt at disposition, other evidence of worth
<b>Income</b>		
Earned income	Letter from employer	Multiple pay stubs
Self-employed	N/A	Tax return from prior year, books of accounts
Regular gifts and contributions	Letter from source, letter from organization receiving gift (i.e., if grandmother pays day care provider, the day care provider could so state)	Bank deposits, other similar evidence
Alimony/child support	Court order, letter from source, letter from Human Services	Record of deposits, divorce decree
Periodic payments (i.e., social security, welfare, pensions, workers compensation, unemployment)	Letter or electronic reports from the source	Award letter, letter announcing change in amount of future payments
Training program participation	Letter from program provider indicating - whether enrolled or completed - whether training is HUD-funded - whether Federal, State, local govt., or local program	N/A

Verification Requirements for Individual Items		
Item to Be Verified	3 <sup>rd</sup> party verification	Hand-carried verification
	<ul style="list-style-type: none"> <li>- whether it is employment training</li> <li>- whether it has clearly defined goals and objectives</li> <li>- whether program has supportive services</li> <li>- whether payments are for out-of-pocket expenses incurred in order to participate in a program</li> <li>- date of first job after program completion</li> </ul>	Evidence of job start

### **12.3 VERIFICATION OF CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS**

The citizenship/eligible non-citizen status of each family member regardless of age must be determined.

Prior to being admitted, or at the first reexamination, all citizens and nationals will be required to sign a declaration under penalty of perjury. They will be required to show proof of their status by such means as a Social Security card, birth certificate, military ID, or military DD 214 Form.

Prior to being admitted or at the first reexamination, all eligible non-citizens who are 62 years of age or older will be required to sign a declaration under penalty of perjury. They will also be required to show proof of age.

Prior to being admitted or at the first reexamination, all eligible non-citizens must sign a declaration of their status and a verification consent form and provide their original INS documentation. The Erie Metropolitan Housing Authority will make a copy of the individual's INS documentation and place the copy in the file. The Erie Metropolitan Housing Authority will also verify their status through the INS SAVE system. If the INS SAVE system cannot confirm eligibility, the Erie Metropolitan Housing Authority will mail information to the INS in order that a manual check can be made of INS records.

Family members who do not claim to be citizens, nationals, or eligible non-citizens must be listed on a statement of non-eligible members and the head of the household must sign the list.

Non-citizen students on student visas, though in the country legally, are not eligible to be admitted to public housing.

Any family member who does not choose to declare their status must be listed on the

statement of non-eligible members.

If no family member is determined to be eligible under this section, the family's eligibility will be denied.

The family's assistance will not be denied, delayed, reduced, or terminated because of a delay in the process of determining eligible status under this section, except to the extent that the delay is caused by the family.

If the Erie Metropolitan Housing Authority determines that a family member has knowingly permitted an ineligible non-citizen (other than any ineligible non-citizens listed on the lease) to permanently reside in their public housing unit, the family will be evicted. Such family will not be eligible to be readmitted to public housing for a period of 24 months from the date of eviction or termination.

#### ***12.4 VERIFICATION OF SOCIAL SECURITY NUMBERS***

Prior to admission, each family member who has a Social Security number and who is at least 6 years of age must provide verification of their Social Security number. New family members at least 6 years of age must provide this verification prior to being added to the lease. Children in assisted households must provide this verification at the first regular reexamination after turning six. An applicant family may become a program participant for up to ninety (90) days, even if the family lacks the documentation necessary to verify the Social Security Number (SSN) of a family member under the age of 6 years. An extension of one (1) additional ninety (90) day period must be granted if the PHA determines that the applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside of the control of the applicant. If an extension is not merited, EMHA must follow the provision of 24 CFR 5.218. If a 90-day extension is merited, EMHA must either verify the SSN for the child by the end of the 90-day extension period or follow the provisions of 24 CFR 5.218. (PIH Notice 2016-05; 24 CFR 5.216)

The best verification of the Social Security number is the original Social Security card. If the card is not available, the Erie Metropolitan Housing Authority will accept letters from the Social Security Agency that establishes and states the number. Documentation from other governmental agencies will also be accepted that establishes and states the number. Driver's licenses, military IDs, passports, or other official documents that establish and state the number are also acceptable.

If an individual states that they do not have a Social Security number, they will be required to sign a statement to this effect. The Erie Metropolitan Housing Authority will not require any individual who does not have a Social Security number to obtain a Social Security number.

If a member of an applicant family indicates they have a Social Security number, but

cannot readily verify it, the family cannot be housed until verification is provided.

If a member of a tenant family indicates they have a Social Security number, but cannot readily verify it, they shall be asked to certify to this fact and shall have up to sixty (60) days to provide the verification. If the individual is at least 62 years of age, they will be given one hundred and twenty (120) days to provide the verification. If the individual fails to provide the verification within the time allowed, the family will be evicted.

### ***12.5 TIMING OF VERIFICATION***

Verification information must be dated within ninety (90) days of certification or reexamination. If the verification is older than this, the source will be contacted and asked to provide information regarding any changes.

When an interim reexamination is conducted, the Housing Authority will verify and update all information related to family circumstances and level of assistance. (Or, the Housing Authority will only verify and update those elements reported to have changed.)

### ***12.6 FREQUENCY OF OBTAINING VERIFICATION***

For each family member, citizenship/eligible non-citizen status will be verified only once. This verification will be obtained prior to admission. If the status of any family member was not determined prior to admission, verification of their status will be obtained at the next regular reexamination. Prior to a new member joining the family, their citizenship/eligible non-citizen status will be verified.

For each family member age 6 and above, verification of Social Security number will be obtained only once. This verification will be accomplished prior to admission. When a family member who did not have a Social Security number at admission receives a Social Security number, that number will be verified at the next regular reexamination. Likewise, when a child turns six, their verification will be obtained at the next regular reexamination.

## **13.0 DETERMINATION OF TOTAL TENANT PAYMENT AND TENANT RENT**

### ***13.1 FAMILY CHOICE***

At admission and each year in preparation for their annual reexamination, each family is given the choice of having their rent determined under the formula method or having their rent set at the flat rent amount.

- A. Families who opt for the flat rent will be required to go through the income reexamination process every three years, rather than the annual review they would

otherwise undergo.

- B. Families who opt for the flat rent may request to have a reexamination and return to the formula based method at any time for any of the following reasons:
  - 1. The family's income has decreased.
  - 2. The family's circumstances have changed increasing their expenses for child care, medical care, etc.
  - 3. Other circumstances creating a hardship on the family such that the formula method would be more financially feasible for the family.

### **13.2 THE FORMULA METHOD**

The total tenant payment is equal to the highest of:

- A. 10% of monthly income;
- B. 30% of adjusted monthly income; or

The family will pay the greater of the total tenant payment or the minimum rent of \$25, but never more than the ceiling rent.

In the case of a family who has qualified for the income exclusion at Section 11.2(I)(11), upon the expiration of the 12-month period described in that section, an additional rent benefit accrues to the family. If the family member's employment continues, then for the 12-month period following the 12-month period of disallowance, the resulting rent increase will be capped at 50 percent of the rent increase the family would have otherwise received.

### **13.3 MINIMUM RENT**

The Erie Metropolitan Housing Authority has set the minimum rent at \$25. However if the family requests a hardship exemption, the Erie Metropolitan Housing Authority will immediately suspend the minimum rent for the family until the Housing Authority can determine whether the hardship exists and whether the hardship is of a temporary or long-term nature.

- A. A hardship exists in the following circumstances:
  - 1. When the family has lost eligibility for or is waiting an eligibility determination for a Federal, State, or local assistance program;



2. When the family would be evicted as a result of the imposition of the minimum rent requirement;
  3. When the income of the family has decreased because of changed circumstances, including loss of employment;
  4. When the family has an increase in expenses because of changed circumstances, for medical costs, childcare, transportation, education, or similar items;
  5. When a death has occurred in the family.
- B. No hardship. If the Housing Authority determines there is no qualifying hardship, the minimum rent will be reinstated, including requiring back payment of minimum rent for the time of suspension.
- C. Temporary hardship. If the Housing Authority reasonably determines that there is a qualifying hardship but that it is of a temporary nature, the minimum rent will not be imposed for a period of 90 days from the date of the family's request. At the end of the 90-day period, the minimum rent will be imposed retroactively to the time of suspension. The Housing Authority will offer a repayment agreement in accordance with the Section 19 of this policy for any rent not paid during the period of suspension. During the suspension period the Housing Authority will not evict the family for nonpayment of the amount of tenant rent owed for the suspension period.
- D. Long-term hardship. If the Housing Authority determines there is a long-term hardship, the family will be exempt from the minimum rent requirement until the hardship no longer exists.
- E. Appeals. The family may use the grievance procedure to appeal the Housing Authority's determination regarding the hardship. No escrow deposit will be required in order to access the grievance procedure.

#### **13.4 THE FLAT RENT**

The Erie Metropolitan Housing Authority has set a flat rent for each public housing development. In doing so, it considered the number of bedrooms size. The Erie Metropolitan Housing Authority determined the market value of the unit and set the rent at the market value. The amount of the flat rent will be reevaluated annually and adjustments applied. Affected families will be given a 30-day notice of any rent change. Adjustments are applied on the anniversary date for each affected family (for more information on flat rents, see Section 15.3). The Erie Metropolitan Housing Authority will post the flat rents at the public housing office.

### **13.5 CEILING RENT**

The Erie Metropolitan Housing Authority has set a ceiling rent for each public housing unit. The amount of the ceiling rent will be reevaluated annually and the adjustments applied. Affected families will be given a 30-day notice of any rent change. Adjustments are applied on the anniversary date for each affected family.

The Erie Metropolitan Housing Authority will post the ceiling rents at the public housing office and at the central office.

### **13.6 RENT FOR FAMILIES UNDER THE NONCITIZEN RULE**

A mixed family will receive full continuation of assistance if all of the following conditions are met:

- A. The family was receiving assistance on June 19, 1995;
- B. The family was granted continuation of assistance before November 29, 1996;
- C. The family's head or spouse has eligible immigration status; and
- D. The family does not include any person who does not have eligible status other than the head of household, the spouse of the head of household, any parent of the head or spouse, or any child (under the age of 18) of the head or spouse.

If a mixed family qualifies for prorated assistance but decides not to accept it, or if the family has no eligible members, the family may be eligible for temporary deferral of termination of assistance to permit the family additional time for the orderly transition of some or all of its members to locate other affordable housing. Under this provision, the family receives full assistance. If assistance is granted under this provision prior to November 29, 1996, it may last no longer than three (3) years. If granted after that date, the maximum period of time for assistance under the provision is eighteen (18) months. The Erie Metropolitan Housing Authority will grant each family a period of six (6) months to find suitable affordable housing. If the family cannot find suitable affordable housing, the Erie Metropolitan Housing Authority will provide additional search periods up to the maximum time allowable.

Suitable housing means housing that is not substandard and is of appropriate size for the family. Affordable housing means that it can be rented for an amount not exceeding the amount the family pays for rent, plus utilities, plus 25%.

The family's assistance is prorated in the following manner:

- Step 1. Determine the total tenant payment in accordance with 24 CFR §5.628. (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)
- Step 2. Family maximum rent is equal to the applicable flat rent for the unit size to be occupied by the family.
- Step 3. Subtract the total tenant payment from the family maximum rent. The result is the maximum subsidy for which the family could qualify if all members were eligible (“family maximum subsidy”).
- Step 4. Divide the family maximum subsidy by the number of persons in the family (all persons) to determine the maximum subsidy per each family member who has citizenship or eligible immigration status (“eligible family member”). The subsidy per eligible family member is the “member maximum subsidy.”
- Step 5. Multiply the member maximum subsidy by the number of family members who have citizenship or eligible immigration status (“eligible family members”). The product of this calculation is the “eligible subsidy.”
- Step 6. The mixed family TTP is the maximum rent minus the amount of the eligible subsidy.
- Step 7. Subtract any applicable utility allowance from the mixed family TTP. The result of this calculation is the mixed family tenant rent.

When the mixed family’s TTP is greater than the maximum rent, the PHA must use the TTP as the mixed family TTP. . Note: A warning message will appear when the family’s TTP is entered into field 10p of PIC. This warning message is a workaround for purposes of implementing this provision.

This method of prorating assistance applies to new admissions and annual reexaminations after the effective date of the regulation. (24 CFR 5.520(d))

### ***13.7 UTILITY ALLOWANCE***

The Erie Metropolitan Housing Authority shall establish a utility allowance for all check-metered utilities and for all tenant-paid utilities. The allowance will be based on a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful environment. In setting the allowance, the Erie Metropolitan Housing Authority will review the actual consumption of tenant families as well as changes made or anticipated due to modernization (weatherization efforts, installation of energy-efficient appliances, etc.). Allowances will be evaluated at least annually as well as any time utility rate changes by 10% or more since the last revision to the allowances.

The utility allowance will be subtracted from the family's formula or flat rent to determine the amount of the Tenant Rent. The Tenant Rent is the amount the family owes

each month to the Erie Metropolitan Housing Authority. The amount of the utility allowance is then still available to the family to pay the cost of their utilities. Any utility cost above the allowance is the responsibility of the tenant. Any savings resulting from utility costs below the amount of the allowance belongs to the tenant.

For Erie Metropolitan Housing Authority paid utilities, the Erie Metropolitan Housing Authority will monitor the utility consumption of each household. Any consumption in excess of the allowance established by the Erie Metropolitan Housing Authority will be billed to the tenant monthly.

Utility allowance revisions based on rate changes shall be effective retroactively to the first day of the month following the month in which the last rate change took place. Revisions based on changes in consumption or other reasons shall become effective at each family's next annual reexamination.

Families with high utility costs are encouraged to contact the Erie Metropolitan Housing Authority for an energy analysis. The analysis may identify problems with the dwelling unit that once corrected will reduce energy costs. The analysis can also assist the family in identifying ways they can reduce their costs.

Requests for relief from surcharges for excess consumption of Erie Metropolitan Housing Authority purchased utilities or from payment of utility supplier billings in excess of the utility allowance for tenant-paid utility costs may be granted by the Erie Metropolitan Housing Authority on reasonable grounds. Requests shall be granted to families that include an elderly member or a member with disabilities. Requests by the family shall be submitted under the Reasonable Accommodation Policy. Families shall be advised of their right to individual relief at admission to public housing and at time of utility allowance changes.

EMHA **reserves the option to implement** retroactive quarterly disbursement of reimbursement payments due to a family if the amount is equal to or less than \$45 per quarter; a hardship exemption may be allowed in accordance with 24 CFR 5.630(b)(2) to allow monthly disbursement. If implemented, EMHA shall make retroactive quarterly payments in accordance with PIH Notice 2016-05; 24CFR 960.253, 982.514. Families leaving the program with retroactive credit for utility reimbursement will have the credit issued at the time of the end of program participation/expiration or termination of the lease. (PIH Notice 2016-05; 24CFR 960.253, 982.514)

### **13.8 PAYING RENT**

Rent and other charges are due and payable on the first day of the month. All rents should be paid at the approved banks. Reasonable accommodations for this requirement will be made for persons with disabilities. As a safety measure, no cash shall be accepted as a rent payment at the offices.

If the rent is not paid by the fifth of the month, a Notice to Vacate will be issued to the tenant. If rent is paid by a personal check and the check is returned for insufficient funds, this shall be considered a non-payment of rent. In the future no personal checks will be accepted.

### **13.9 PUBLIC HOUSING INCOME LIMIT (HOTMA 2016)**

In accordance with the Housing Opportunity Through Modernization Act of 2016 as published in the Federal Register for final implementation on July 26, 2018, Erie MHA incorporates an income limit for continued occupancy in the public housing program. Families that have an income that exceed the applicable income limit for two (2) consecutive years will be subject to termination or be required to pay a higher rental payment. The higher rental payment shall be established and incorporated by regulation as promulgated through the U.S. Department of Housing and Urban Development (HUD). Erie MHA must begin tracking the two (2) year period for families at the annual or interim reexamination that determines the family's income has exceeded the limit. The applicable income limit is equal to the effective Very-Low Income level multiplied by 2.4. (HUD updates these income limits annually.)

## **14.0 CONTINUED OCCUPANCY AND COMMUNITY SERVICE**

### **14.1 GENERAL**

In order to be eligible for continued occupancy, each adult family member must either (1) contribute eight hours per month of community service (not including political activities) within the community in which the public housing development is located, or (2) participate in an economic self-sufficiency program unless they are exempt from this requirement

### **14.2 EXEMPTIONS**

The following adult family members of tenant families are exempt from this requirement.

- A. Family members who are 62 or older
- B. Family members who are blind or disabled
- C. Family members who are the primary care giver for someone who is blind or disabled
- D. Family members engaged in work activity

- E. Family members who are exempt from work activity under part A title IV of the Social Security Act or under any other State welfare program, including the welfare-to-work program
- F. Family members receiving assistance under a State program funded under part A title IV of the Social Security Act or under any other State welfare program, including welfare-to-work and who are in compliance with that program

### **14.3 NOTIFICATION OF THE REQUIREMENT**

The Erie Metropolitan Housing Authority shall identify all adult family members who are apparently not exempt from the community service requirement.

The Erie Metropolitan Housing Authority shall notify all such family members of the community service requirement and of the categories of individuals who are exempt from the requirement. The notification will provide the opportunity for family members to claim and explain an exempt status. The Erie Metropolitan Housing Authority shall verify such claims.

The notification will advise families that their community service obligation will begin upon the effective date of their first annual reexamination on or after 10/1/99. For family's paying a flat rent, the obligation begins on the date their annual reexamination would have been effective had an annual reexamination taken place. It will also advise them that failure to comply with the community service requirement will result in ineligibility for continued occupancy at the time of any subsequent annual reexamination.

### **14.4 VOLUNTEER OPPORTUNITIES**

Community service includes performing work or duties in the public benefit that serve to improve the quality of life and/or enhance resident self-sufficiency, and/or increase the self-responsibility of the resident within the community.

An economic self-sufficiency program is one that is designed to encourage, assist, train or facilitate the economic independence of participants and their families or to provide work for participants. These programs may include programs for job training, work placement, basic skills training, education, English proficiency, work fare, financial or household management, apprenticeship, and any program necessary to ready a participant to work (such as substance abuse or mental health treatment).

The Erie Metropolitan Housing Authority will coordinate with social service agencies, local schools, and the Human Resources Office in identifying a list of volunteer community service positions.

Together with the resident advisory councils, the Erie Metropolitan Housing Authority may create volunteer positions such as hall monitoring, litter patrols, and supervising and

record keeping for volunteers.

#### **14.5 THE PROCESS**

At the first annual reexamination on or after October 1, 1999, and each annual reexamination thereafter, the Erie Metropolitan Housing Authority will do the following:

- A. Provide a list of volunteer opportunities to the family members.
- B. Provide information about obtaining suitable volunteer positions.
- C. Provide a volunteer time sheet to the family member. Instructions for the time sheet require the individual to complete the form and have a supervisor date and sign for each period of work.
- D. Assign family members to a volunteer coordinator who will assist the family members in identifying appropriate volunteer positions and in meeting their responsibilities. The volunteer coordinator will track the family member's progress monthly and will meet with the family member as needed to best encourage compliance.
- E. Thirty (30) days before the family's next lease anniversary date, the volunteer coordinator will advise the Erie Metropolitan Housing Authority whether each applicable adult family member is in compliance with the community service requirement.

#### **14.6 NOTIFICATION OF NON-COMPLIANCE WITH COMMUNITY SERVICE REQUIREMENT**

The Erie Metropolitan Housing Authority will notify any family found to be in noncompliance of the following:

- A. The family member(s) has been determined to be in noncompliance;
- B. That the determination is subject to the grievance procedure; and
- C. That, unless the family member(s) enter into an agreement to comply, the lease will not be renewed or will be terminated;

#### **14.7 OPPORTUNITY FOR CURE**

The Erie Metropolitan Housing Authority will offer the family member(s) the opportunity to enter into an agreement prior to the anniversary of the lease. The agreement shall state that the family member(s) agrees to enter into an economic self-

sufficiency program or agrees to contribute to community service for as many hours as needed to comply with the requirement over the past 12-month period. The cure shall occur over the 12-month period beginning with the date of the agreement and the resident shall at the same time stay current with that year's community service requirement. The first hours a resident earns goes toward the current commitment until the current year's commitment is made.

The volunteer coordinator will assist the family member in identifying volunteer opportunities and will track compliance on a monthly basis.

If any applicable family member does not accept the terms of the agreement, does not fulfill their obligation to participate in an economic self-sufficiency program, or falls behind in their obligation under the agreement to perform community service by more than three (3) hours after three (3) months, the Erie Metropolitan Housing Authority shall take action to terminate the lease.

#### ***14.8 TENANT SELF-CERTIFICATION FOR COMMUNITY SERVICE & SELF-SUFFICIENCY***

EMHA reserves the option to implement Self-Certification flexibility when verifying Community Service and Self-Sufficiency Requirement (CSSR) Compliance in accordance with PIH Notice 2016-06 & 24 CFR 960.605, 960.607.

### **15.0 RECERTIFICATIONS**

At least annually, the Erie Metropolitan Housing Authority will conduct a reexamination of family income and circumstances. The results of the reexamination determine (1) the rent the family will pay, and (2) whether the family is housed in the correct unit size.

#### ***15.1 GENERAL***

The Erie Metropolitan Housing Authority will send a notification letter to the family letting them know that it is time for their annual reexamination, giving them the option of selecting either the flat rent or formula method, and scheduling an appointment if they are currently paying a formula rent. If the family thinks they may want to switch from a flat rent to a formula rent, they should request an appointment. At the appointment, the family can make their final decision regarding which rent method they will choose. The letter also includes, for those families paying the formula method, forms for the family to complete in preparation for the interview. The letter includes instructions permitting the family to reschedule the interview if necessary. The letter tells families who may need to make alternate arrangements due to a disability that they may contact staff to request an accommodation of their needs.

During the appointment, the Erie Metropolitan Housing Authority will determine whether family composition may require a transfer to a different bedroom size unit, and if so, the



family's name will placed on the transfer list.

### **15.2 MISSED APPOINTMENTS**

If the family fails to respond to the letter and fails to attend the interview, a second letter will be mailed. The second letter will advise of a new time and date for the interview, allowing for the same considerations for rescheduling and accommodation as above. The letter will also advise that failure by the family to attend the second scheduled interview will result in the Erie Metropolitan Housing Authority taking eviction actions against the family.

### **15.3 FLAT RENTS**

The annual letter to flat rent payers regarding the reexamination process will state the following:

- A. Each year at the time of the annual reexamination, the family has the option of selecting a flat rent amount in lieu of completing the reexamination process and having their rent based on the formula amount.
- B. The amount of the flat rent
- C. A fact sheet about formula rents that explains the types of income counted, the most common types of income excluded, and the categories allowances that can be deducted from income.
- D. Families who opt for the flat rent will be required to go through the income reexamination process every three years, rather than the annual review they otherwise would undergo.
- E. Families who opt for the flat rent may request to have a reexamination and return to the formula-based method at any time for any of the following reasons:
  - 1. The family's income has decreased.
  - 2. The family's circumstances have changed increasing their expenses for child care, medical care, etc.
  - 3. Other circumstances creating a hardship on the family such that the formula method would be more financially feasible for the family.
- F. The dates upon which the Erie Metropolitan Housing Authority expects to review the amount of the flat rent, the approximate rent increase the family could expect, and the approximate date upon which a future rent increase could become effective.

G. The name and phone number of an individual to call to get additional information or counseling concerning flat rents.

H. A certification for the family to sign accepting or declining the flat rent.

Each year prior to their anniversary date, Erie Metropolitan Housing Authority will send a reexamination letter to the family offering the choice between a flat and a formula rent. The opportunity to select the flat rent is available only at this time. At the appointment, the Erie Metropolitan Housing Authority may assist the family in identifying the rent method that would be most advantageous for the family. If the family wishes to select the flat rent method without meeting with the Erie Metropolitan Housing Authority representative; they may make the selection on the form and return the form to the Erie Metropolitan Housing Authority. In such case, the Erie Metropolitan Housing Authority will cancel the appointment.

#### **15.4 THE FORMULA METHOD**

During the interview, the family will provide all information regarding income, assets, expenses, and other information necessary to determine the family's share of rent. The family will sign the HUD consent form and other consent forms that later will be mailed to the sources that will verify the family circumstances.

Upon receipt of verification, the Erie Metropolitan Housing Authority will determine the family's annual income and will calculate their rent as follows.

The total tenant payment is equal to the highest of:

- A. 10% of monthly income;
- B. 30% of adjusted monthly income; or
- C. The welfare rent.

The family will pay the greater of the total tenant payment or the minimum rent of \$25, but never more than the ceiling rent.

#### **15.5 STREAMLINED ANNUAL REEXAMINATIONS FOR FIXED SOURCES OF INCOME**

EMHA **reserves the option to implement** a streamlined income determination for any family member with a fixed source of income. (Non-fixed sources of income remain subject to third-party verification.) **If implemented**, fixed-income includes income from: Social Security Payments (SSI & SSDI); Federal, state, local & private pension plans; and other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic payments. The

streamlined determination will be made by applying a verified cost of living adjustment (COLA) or current rate of interest to the previously verified or adjusted income amount. The COLA or current interest rate applicable to each source of fixed income must be obtained either from a public source or from tenant-provided, third-party generated documentation. EMHA must document how the determination was made that a source of income is fixed. Third-party verification of all income amounts for all family members must be performed at least every three (3) years. All family members' signatures on consent forms required by 24 CFR 5.230 must still be obtained by EMHA. (This implementation option is made available as detailed in PIH Notice 2016-05 and 24 CFR 960.257, 982.516)

### **15.6 EFFECTIVE DATE OF RENT CHANGES FOR ANNUAL REEXAMINATIONS**

The new rent will generally be effective upon the anniversary date with thirty- (30) days' notice of any rent increase to the family.

If the rent determination is delayed due to a reason beyond the control of the family, then any rent increase will be effective the first of the month after the month in which the family receives a 30-day notice of the amount. If the new rent is a reduction and the delay is beyond the control of the family, the reduction will be effective as scheduled on the anniversary date.

If the family caused the delay, then any increase will be effective on the anniversary date. Any reduction will be effective the first of the month after the rent amount is determined.

### **15.7 INTERIM REEXAMINATIONS**

During an interim reexamination, only the information affected by the changes being reported will be reviewed and verified.

Families will not be required to report any increase in income or decreases in allowable expenses between annual reexaminations, if they qualify for exclusion in Section 11.2 (I) (11). Timely reporting of income is considered within ten (10) days.

Families are required to report the following changes to the Erie Metropolitan Housing Authority between regular reexaminations. If the family's rent is being determined under the formula method, these changes will trigger an interim reexamination. The family shall report these changes within ten (10) days of their occurrence.

- A. A member has been added to the family through birth or adoption or court-awarded custody.
- B. A household member is leaving or has left the family unit.

In order to add a household member other than through birth or adoption (including a live-in aide), the family must request that the new member be added to the lease. Before adding the new member to the lease, the individual must complete an application form stating their income, assets, and all other information required of an applicant. The individual must provide their Social Security number if they have one and must verify their citizenship/eligible immigrant status. (Their housing will not be delayed due to delays in verifying eligible immigrant status other than delays caused by the family.) The new family member will go through the screening process similar to the process for applicants. The Erie Metropolitan Housing Authority will determine the eligibility of the individual before adding them to the lease. If the individual is found to be ineligible or does not pass the screening criteria, they will be advised in writing and given the opportunity for an informal review. If they are found to be eligible and do pass the screening criteria, their name will be added to the lease. At the same time, if the family's rent is being determined under the formula method, the family's annual income will be recalculated taking into account the circumstances of the new family member. The effective date of the new rent will be in accordance with paragraph below 15.8.

Families are not required to, but may at any time, request an interim reexamination based on a decrease in income, an increase in allowable expenses, or other changes in family circumstances. Upon such request, the Erie Metropolitan Housing Authority will take timely action to process the interim reexamination and recalculate the tenant's rent.

#### **15.8 SPECIAL REEXAMINATIONS**

If a family's income is too unstable to project for twelve (12) months, including families that temporarily have no income (0 renters) or have a temporary decrease in income, the Erie Metropolitan Housing Authority may schedule special reexaminations every sixty (60) days until the income stabilizes and an annual income can be determined.

#### **15.9 EFFECTIVE DATE OF RENT CHANGES DUE TO INTERIM OR SPECIAL REEXAMINATIONS**

Unless there is a delay in reexamination processing caused by the family, any rent increase will be effective the first of the second month after the month in which the family receives notice of the new rent amount, as long as the necessary documentation is provided to Erie MHA by the fifteenth (15<sup>th</sup>) of the month. (Timeliness of documentation submission to be effective the 1st of the following month for an interim re-examination must be provided by the 15th of the month, and documentation submitted after the 15th of the month may delay the effective date beyond the 1st of the following month to the next month.) If the family causes a delay, then the rent increase will be effective on the date it would have been effective had the process not been delayed (even if this means a retroactive increase).

If the new rent is a reduction and any delay is beyond the control of the family, the reduction will be effective the first of the month after the interim reexamination should

have been completed.

If the new rent is a reduction and the family caused the delay or did not report the change in a timely manner, the change will be effective the first of the month after the rent amount is determined. Timely reporting of income and family composition changes is considered within ten (10) days.

## **16.0 UNIT TRANSFERS**

### **16.1 OBJECTIVES OF THE TRANSFER POLICY**

The objectives of the Transfer Policy include the following:

- A. To address emergency situations.
- B. To fully utilize available housing resources while avoiding overcrowding by insuring that each family occupies the appropriate size unit.
- C. To facilitate relocation when required for modernization or other management purposes.
- D. To facilitate relocation of families with inadequate housing accommodations.
- E. To provide an incentive for families to assist in meeting the Erie Metropolitan Housing Authority's deconcentration goal.
- F. To eliminate vacancy loss and other expense due to unnecessary transfers.

### **16.2 CATEGORIES OF TRANSFERS**

Category 1: Emergency transfers. These transfers are necessary when conditions pose an immediate threat to the life, health, or safety of a family or one of its members. Such situations may involve those under VAWA protections, defects of the unit or the building in which it is located, the health condition of a family member, a hate crime, the safety of witnesses to a crime, or a law enforcement matter particular to the neighborhood.

Category 2: Immediate administrative transfers. These transfers are necessary in order to permit a family needing accessible features to move to a unit with such a feature or to enable modernization work to proceed.

Category 3: Regular administrative transfers. These transfers are made to offer incentives to families willing to help meet certain Erie Metropolitan Housing Authority occupancy goals, to correct occupancy standards where the unit size is inappropriate for the size and composition of the family, to allow for non-emergency but medically advisable transfers,

and other transfers approved by the Erie Metropolitan Housing Authority when a transfer is the only or best way of solving a serious problem. These transfers are also made to accommodate working families who need to be close to their place of employment.

### **16.3 DOCUMENTATION**

When the transfer is at the request of the family, the family may be required to provide third party verification of the need for the transfer.

### **16.4 INCENTIVE TRANSFERS**

Transfer requests will be encouraged and approved for families who live in a development where their income category (below or above 30% of area median) predominates and wish to move to a development where their income category does not predominate.

Families living in multifamily developments have the opportunity to transfer to scattered-site housing. Families approved for such transfers will meet the following eligibility criteria:

- A. Have been a tenant for three years;
- B. For a minimum of one year, at least one adult family member is enrolled in an economic self-sufficiency program or is working at least thirty-five (35) hours per week, the adult family members are 62 years of age or older or are disabled or are the primary care givers to others with disabilities;
- C. Adult members who are required to perform community service have been current in these responsibilities since the inception of the requirement or for one year whichever is less;
- D. The family is current in the payment of all charges owed the Erie Metropolitan Housing Authority and has not paid late rent for at least one year;
- E. The family passes a current housekeeping inspection and does not have any record of housekeeping problems during the last year;
- F. The family has not materially violated the lease over the past two years by disturbing the peaceful enjoyment of their neighbors, by engaging in criminal or drug-related activity, or by threatening the health or safety of tenants or Housing Authority staff.
- G. Participates in a series of classes conducted by the Erie Metropolitan Housing Authority on basic home and yard care.

## **16.5 PROCESSING TRANSFERS**

Transfers on the waiting list will be sorted by the above categories and within each category by date and time.

Transfers in Category 1 and 2 will be housed ahead of any other families, including those on the applicant waiting list. Transfers in Category 1 will be housed ahead of transfers in Category 2.

Transfers in Category 3 will be housed along with applicants for admission at a ratio of one transfer for every seven admissions.

Upon offer and acceptance of a unit, the family will execute all leasing documents and pay any rent and/or security deposit within two (2) days of being informed the unit is ready to rent. The family will be allowed seven (7) days to complete a transfer. The family will be responsible for paying rent at the old unit as well as the new unit for any period of time they have possession of both. The prorated rent and other charges (key deposit and any additional security deposit owing) must be paid at the time of lease execution.

The following is the policy for the rejection of an offer to transfer:

- A. If the family rejects with good cause any unit offered they would not lose their place on the transfer waiting list.
- B. If the transfer is being made at the request of the Erie Metropolitan Housing Authority and the family rejects two offers without good cause, the Erie Metropolitan Housing Authority will take action to terminate their tenancy. If the reason for the transfer is that the current unit is too small to meet the Erie Metropolitan Housing Authority's optimum occupancy standards, the family may request in writing to stay in the unit without being transferred so long as their occupancy will not exceed two people per living/sleeping room.
- C. If the transfer is being made at the family's request and the rejected offer provides deconcentration incentives, the family will maintain their place on the transfer list and will not otherwise be penalized.
- D. If the transfer is being made at the family's request, the family may, without good cause and without penalty, turn down one offer that does not include deconcentration incentives. After turning down a second such offer without good cause, the family's name will be removed from the transfer list.

## **16.6 COST OF THE FAMILY'S MOVE**

The cost of the transfer generally will be borne by the family in the following

circumstances:

- A. When the transfer is made at the request of the family or by others on behalf of the family (i.e. by the police);
- B. When the transfer is needed to move the family to an appropriately sized unit, either larger or smaller;
- C. When the transfer is necessitated because a family with disabilities needs the accessible unit into which the transferring family moved (The family without disabilities signed a statement to this effect prior to accepting the accessible unit);  
or
- D. When the transfer is needed because action or inaction by the family caused the unit to be unsafe or uninhabitable.
- E. When the transfer is needed because of the tenant's request for an emergency transfer related to VAWA 2013 protections.

The cost of the transfer will be borne by the Erie Metropolitan Housing Authority in the following circumstances:

- A. When the transfer is needed in order to carry out rehabilitation activities; or
- B. When action or inaction by the Erie Metropolitan Housing Authority has caused the unit to be unsafe or inhabitable.

The responsibility for moving costs in other circumstances will be determined on a case by case basis.

### **16.7 TENANTS IN GOOD STANDING**

When the transfer is at the request of the family, it will not be approved unless the family is in good standing with the Erie Metropolitan Housing Authority. This means the family must be in compliance with their lease, current in all payments to the Housing Authority, not have paid late rent for at least one year , and must pass a housekeeping inspection.

### **16.8 TRANSFER REQUESTS**

A tenant may request a transfer at any time by completing a transfer request form. In considering the request, the Erie Metropolitan Housing Authority may request a meeting with the tenant to better understand the need for transfer and to explore possible alternatives. The Erie Metropolitan Housing Authority will review the request in a timely manner and if a meeting is desired, it shall contact the tenant within ten (10) business days of receipt of the request to schedule a meeting.



The Erie Metropolitan Housing Authority will grant or deny the transfer request in writing within ten (10) business days of receiving the request or holding the meeting, whichever is later.

If the transfer is approved, the family's name will be added to the transfer waiting list.

If the transfer is denied, the denial letter will advise the family of their right to utilize the grievance procedure.

#### **16.9 *RIGHT OF THE ERIE METROPOLITAN HOUSING AUTHORITY IN TRANSFER POLICY***

The provisions listed above are to be used as a guide to insure fair and impartial means of assigning units for transfers. It is not intended that this policy will create a property right or any other type of right for a tenant to transfer or refuse to transfer.

### **17.0 INSPECTIONS**

An authorized representative of the Erie Metropolitan Housing Authority and an adult family member will inspect the premises prior to commencement of occupancy. A written statement of the condition of the premises will be made, all equipment will be provided, and the statement will be signed by both parties with a copy retained in the Erie Metropolitan Housing Authority file and a copy given to the family member. An authorized Erie Metropolitan Housing Authority representative will inspect the premises at the time the resident vacates and will furnish a statement of any charges to be made provided the resident turns in the proper notice under State law. The resident's security deposit can be used to offset against any Erie Metropolitan Housing Authority damages to the unit.

#### **17.1 *MOVE-IN INSPECTIONS***

The Erie Metropolitan Housing Authority and an adult member of the family will inspect the unit prior to signing the lease. Both parties will sign a written statement of the condition of the unit. A copy of the signed inspection will be given to the family and the original will be placed in the tenant file.

#### **17.2 *ANNUAL INSPECTIONS***

The Erie Metropolitan Housing Authority will inspect each public housing unit annually to ensure that each unit meets the Erie Metropolitan Housing Authority's housing standards. Work orders will be submitted and completed to correct any deficiencies.

### ***17.3 PREVENTATIVE MAINTENANCE INSPECTIONS***

This is generally conducted along with the annual inspection. This inspection is intended to keep items in good repair. It checks weatherization; checks the condition of the smoke detectors, water heaters, furnaces, automatic thermostats and water temperatures; checks for leaks; and provides an opportunity to change furnace filters and provide other minor servicing that extends the life of the unit and its equipment.

### ***17.4 SPECIAL INSPECTIONS***

A special inspection may be scheduled to enable HUD or others to inspect a sample of the housing stock maintained by the Erie Metropolitan Housing Authority.

### ***17.5 HOUSEKEEPING INSPECTIONS***

Generally, at the time of annual reexamination, or at other times as necessary, the Erie Metropolitan Housing Authority will conduct a housekeeping inspection to ensure the family is maintaining the unit in a safe and sanitary condition.

### ***17.6 NOTICE OF INSPECTION***

For inspections defined as annual inspections, preventative maintenance inspections, special inspections, and housekeeping inspections the Erie Metropolitan Housing Authority will give the tenant at least twenty-four (24) hours written notice.

### ***17.7 EMERGENCY INSPECTIONS***

If any employee and/or agent of the Erie Metropolitan Housing Authority have reason to believe that an emergency exists within the housing unit, the unit can be entered without notice. The person(s) that enters the unit will leave a written notice to the resident that indicates the date and time the unit was entered and the reason why it was necessary to enter the unit.

### ***17.8 PRE-MOVE-OUT INSPECTIONS***

When a tenant gives notice that they intend to move, the Erie Metropolitan Housing Authority will offer to schedule a pre-move-out inspection with the family. The inspection allows the Erie Metropolitan Housing Authority to help the family identify any problems which, if left uncorrected, could lead to vacate charges. This inspection is a courtesy to the family and has been found to be helpful both in reducing costs to the family and in enabling the Erie Metropolitan Housing Authority to ready units more quickly for the future occupants.

### ***17.9 MOVE-OUT INSPECTIONS***

The Erie Metropolitan Housing Authority conducts the move-out inspection after the tenant vacates to assess the condition of the unit and determine responsibility for any needed repairs. When possible, the tenant is notified of the inspection and is encouraged to be present. This inspection becomes the basis for any claims that may be assessed against the security deposit.

## **18.0 PET POLICY**

### **18.1 EXCLUSIONS**

This policy does not apply to animals that are used to assist persons with disabilities. Assistive animals are allowed in all public housing facilities with no restrictions other than those imposed on all tenants to maintain their units and associated facilities in a decent, safe, and sanitary manner and to refrain from disturbing their neighbors.

The rules regarding pets only apply to residents and resident pet owners. These rules are not to be construed as changing in any way the policy of visiting animals or animals that assist handicapped residents. Persons visiting residents shall, if they bring a pet, be the responsibility of the resident.

### **18.2 DEFINITION OF “PET”**

A pet is defined as a smaller domesticated animal, such as a dog, cat, bird, rodent, fish or other animal that is traditionally kept in the home for pleasure rather than commercial purposes. Reptiles, except turtles, are excluded from this definition.

### **18.3 APPROVAL**

All residents residing in public housing shall be permitted to own or keep a pet but must register the pet with the Housing Authority before moving a pet into their unit. The resident must show evidence of both the physical and mental ability to care for the pet.

Dogs and cats must be neutered or spayed with a Veterinarian report supplied verifying the operation. All pets must have all County and/or City licenses and records of vaccinations and inoculations. These are to be renewed annually and copies to be kept in the resident’s file.

### **18.4 TYPES AND NUMBER OF PETS**

Residents shall be permitted to keep only one dog or cat that when fully matured shall not exceed twenty (20) pounds, birds in cages not to exceed 10 cubic feet, or fish in an aquarium not to exceed thirty gallons.

Animals deemed to be potentially harmful to the health or safety of others, including attack or fight trained dogs, will not be allowed.

**18.5 NUISANCE OR THREAT TO HEALTH OR SAFETY**

Residents shall keep their pet inside their apartment at all times except as necessary to take the pet out. When outside of their apartment, residents shall keep their pet on a leash or in an appropriate container and the pet shall be accompanied by and under the direct control of the resident at all times.

The pet and its living quarters must be maintained in a manner to prevent odors and any other unsanitary conditions in the owner's unit and surrounding areas.

**18.6 PET SECURITY DEPOSIT**

The resident must provide a pet security deposit of \$200 at the time of registering a pet. This amount may be periodically revised by Management, if necessary, but will never exceed \$300. If the deposit is increased, the increase will be charged at \$10 per month until paid in full. In addition should damage be done to the residence or to any public area of the Housing Authority, other than those designated by Management for pet use, shall be the responsibility of the resident. The deposit is refundable when the pet or the family vacates the unit, less any amounts owed due to damage beyond normal wear and tear.

**18.7 EXERCISE AREAS (WHERE APPLICABLE)**

Management will designate space to be used exclusively for the purpose of walking pets. A curb rule shall be in effect at all times. Pet owners shall be responsible for immediate clean-up after exercising their pet. A scoop for that purpose is to be owned by each resident pet owner. Management will place a receptacle in the exercise areas where pet waste is to be placed after bagged and tied in a plastic bag.

Should an accident occur in any area other than an exercise area, the resident shall be responsible for immediately cleaning up after the pet and shall notify Management immediately after the accident had been cleaned.

**18.8 HOUSEKEEPING**

Litter is to be stirred, cleaned and replaced on a basis frequently enough that odor does not occur. No pet feces is to be put in the toilet. It must be bagged and placed in the dumpster (It is not to be thrown down the garbage chute at the high-rise).

All apartments having pets must be sprayed for fleas on a monthly basis at the expense of the owner. In addition to spraying the apartment for fleas, the pet is to be dipped periodically to rid it of fleas.

### **18.9 EMERGENCY CARE OF ANIMALS**

Pets must supply to Management an affidavit of agreement, with the names of two people who will be willing to assume immediate responsibility for the pet in case of emergency. In cases of emergencies where Management is unable to reach one of the back-up persons, pet owner agrees to allow Management to have the pet removed by the City of Sandusky animal control officer or other public or quasi-public authority to a Veterinarian of Management's choice. All fees and costs shall be borne by the pet owner.

In such cases of an emergency, the owner/resident, his or her agent, estate, or family, within five days, make arrangements with holder of said pet as to its disposition and shall be responsible for all obligations, financial or other, for actions taken on behalf of the pet owner or for the well-being of the pet.

### **18.10 PET VIOLATION NOTICE**

If a pet becomes annoying or in any other way a nuisance to other residents or to the apartment operations, or if a pet becomes a safety, welfare or health hazard to other residents or the owner, Management will send a pet violation notice to the owner. The notice will have a statement requiring the pet owner to correct the violation (including removal of the pet, if appropriate), or to request a meeting within ten days and a statement indicating that failure to act within ten days or to appear at a scheduled meeting may result in pet removal or termination of the tenancy procedures. The resident will have the right to have a third party of his/her choice at the pet violation meeting.

If the pet owner and housing manager are unable to resolve the pet violation or if Management determines that the pet owner has failed to correct the pet rule violation within the time specified, Management may serve written notice on the pet owner. The notice will contain a summary of the facts, a statement that the pet must be removed within ten days of the notice and a statement indicating that failure to remove the pet may result in institution of proceedings to terminate the pet owner's tenancy.

### **18.11 COOPERATION OF RESIDENT PET OWNER AND MANAGEMENT**

For this program to work effectively, there must be full cooperation and understanding of all rules and regulations by both pet owner and Management. To this end, copies of these rules shall be given to each resident and a lease addendum will be executed by the resident indicating that they agree to comply with the rules.

## **19.0 SMOKE-FREE HOUSING POLICY**

Erie Metropolitan Housing Authority's Board approved the smoke free housing policy as of April 5, 2017, following the public meeting regarding the agency's annual plan. Erie

MHA (Property Manager / Owner) incorporates the following addendum into its lease to maintain compliance with the Final Rule published by the United States Department of Housing and Urban Development in the Federal Register on December 5, 2016, and bars the use of prohibited tobacco products (items that involve the ignition and burning of tobacco leaves such as cigarettes, cigars, pipes and water pipes aka hookahs) in all public housing living units, interior common areas and outdoor areas of public housing and administrative office buildings aka restricted areas. [Reference: §965.653 Smoke-free public housing.]

### **19.1 LEASE ADDENDUM**

This lease amendment must be completed by all residents housed as a condition of their continuing occupancy. This lease shall incorporate the requirement that residents in public housing, members of a resident's household, resident's guest, or other person under the resident's control must not engage in any smoking of specified prohibited tobacco products in restricted areas.

This lease amendment is issued at least 60 days before the lease revision is to take place which shall be July 1, 2018, after which time enforcement of this addendum shall take place.

The Housing Authority is obligated to enforce smoke-free policies when a resident is violating the policy, but the agency will not evict for a single incident of smoking in violation of the policy. Erie MHA has adopted a graduated enforcement framework that includes escalating warnings and fines with documentation to the tenant file. The first incident shall result in a warning and \$25 fine. The second incident shall result in increased inspection of the unit and a \$50 fine. The third incident shall result in further increased inspection of the unit and a \$75 fine. The fourth incident shall result in a \$100 fine. Any additional incidents of violation of the policy will result in the termination of tenancy and then pursuit of eviction action against the tenant for repeated violation of the lease.

Property Manager/Owner Not a Guarantor of Smoke Free Environment: Resident acknowledges that Property Manager/Owner's adoption of a smoke-free living environment, and the efforts to designate the rental complex as smoke free, do not make the Property Manager/Owner or any of its managing agents the guarantor of Resident's health or of the smoke-free condition of the Resident's unit and the common areas. However, Property Manager/Owner shall take reasonable steps to enforce the smoke-free terms of its Leases/House Rules and to make the (designated areas of the) complex smoke-free. Property Manager/Owner is not required to take steps in response to smoking unless Property Manager/Owner knows of said smoking or has been given a report of said smoking.

Resident acknowledges that Property Manager/Owner's adoption of a smoke-free living environment, and the efforts to designate the rental complex as smoke-free, does not in

any way change the standard of care that the Property Manager/Owner would have to a Resident household to render buildings and premises designated as smoke-free any safer, more habitable, or improved in terms of air quality standards than any other rental premises. Property Manager/Owner specifically disclaims any implied or express warranties that the building, common areas, or Resident's premises will have any higher or improved air quality standards than any other rental property. Property Manager/Owner cannot and does not warranty or promise that the rental premises or common areas will be free from secondhand smoke. Resident acknowledges that Property Manager/Owner's ability to police, monitor, or enforce the agreements of the Addendum is dependent in significant part on voluntary compliance by Resident and Resident's guests. Residents with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that Property Manager/Owner does not assume any higher duty of care to enforce this Lease Addendum/House Rules than any other Property Manager/Owner obligation under the Lease.

**[Reference: § 966.4 Lease Requirements. \* \* \* \* \* (f) \* \* \* (12) \* \* \* (i) To assure that no tenant, member of the tenant's household, or guest engages in: (A) Criminal activity. (1) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents; (2) Any drug-related criminal activity on or off the premises; or (B) Civil activity. For any units covered by 24 CFR part 965, subpart G, any smoking of prohibited tobacco products in restricted areas, as defined by 24 CFR 965.653(a), or in other outdoor areas that the PHA has designated as smoke-free. (ii) To assure that no other person under the tenant's control engages in: (A) Criminal activity. (1) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents; (2) Any drug-related criminal activity on the premises; or 55 (B) Civil activity. For any units covered by 24 CFR part 965, subpart G, any smoking of prohibited tobacco products in restricted areas, as defined by 24 CFR 965.653(a), or in other outdoor areas that the PHA has designated as smoke-free.]**

## **19.2 SMOKING CESSATION RESOURCES**

The Erie County Health Department may have resources available or referrals to assist tenants with smoking cessation.

HUD acknowledges the importance of connecting residents interested in quitting smoking to cessation resources, preferably at no cost. Although HUD does not directly provide cessation assistance, HUD has resources available on Healthy Homes Web site ([http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/healthy\\_homes/hhi](http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/hhi)) for residents interested in cessation. Medicaid covers the cost of tobacco cessation services and prescription smoking cessation medications for recipients, and although Medicaid coverage varies by state, all 50 states offer at least some smoking cessation coverage. Residents of all states also have access to "quitlines," which are free evidence-based cessation services that residents can access by calling 1-800—QUIT—NOW.

## **20.0 REPAYMENT AGREEMENTS**

When a resident owes the Erie Metropolitan Housing Authority back charges and is unable to pay the balance by the due date, the resident may request that the Erie Metropolitan Housing Authority allow them to enter into a Repayment Agreement. The Erie Metropolitan Housing Authority has the sole discretion of whether to accept such an agreement. All Repayment Agreements must assure that the full payment is made within a period not to exceed twelve (12) months. All Repayment Agreements must be in writing and signed by both parties. Failure to comply with the Repayment Agreement terms may subject the Resident to eviction procedures.

## **21.0 TERMINATION**

### ***21.1 TERMINATION BY TENANT***

The tenant may terminate the lease at any time upon submitting a 30-day written notice. If the tenant vacates prior to the end of the thirty (30) days, they will be responsible for rent through the end of the notice period or until the unit is re-rented, whichever occurs first.

### ***21.2 TERMINATION BY THE HOUSING AUTHORITY***

The Erie Metropolitan Housing Authority after 10/1/1999 will not renew the lease of any family that is not in compliance with the community service requirement or an approved Agreement to Cure. If they do not voluntarily leave the property, eviction proceedings will begin.

The Erie Metropolitan Housing Authority will terminate the lease for serious or repeated violations of material lease terms. Such violations include but are not limited to the following:

- A. Nonpayment of rent or other charges due under the lease (i.e. utilities), or repeated chronic late payment of rent (four times in a 12-month period,
- B. Failure to provide timely and accurate statements of income, assets, expenses and family composition at Admission, Interim, Special or Annual Rent Recertifications (timely reporting of income and family composition changes is considered within ten (10) days), to attend scheduled reexamination interviews or to cooperate in the verification process if the Resident has chosen to pay rent based on a percentage on income,



- C. Furnishing false or misleading information during the application or review process,
- D. Assigning or subleasing of the premises or providing accommodation for boarders or lodgers; including unapproved visitors to a subsidized unit over fourteen (14) consecutive days or a total of thirty-six (36) days in a 12-month period are considered to be unauthorized household members; use of a subsidized unit address as a visitor's residence for any purpose that is not explicitly temporary shall be construed as permanent residence; that absence of evidence of any other address will be considered verification that the visitor is an unauthorized member of the household; that statements from neighbors and/or landlord will be considered; that the burden of proof that an individual is a visitor rests on the family, and in the absence of such proof the individual will be considered an unauthorized member of the household causing the family to be subject to termination of program assistance,
- E. Use of the premises for purposes other than solely as a dwelling unit for the Resident and Resident's household as identified in this lease, or permitting its use for any other purpose without the written permission of the Housing Authority, (unapproved visitors to a subsidized unit over fourteen (14) consecutive days or a total of thirty-six (36) days in a 12-month period are considered to be unauthorized household members; use of a subsidized unit address as a visitor's residence for any purpose that is not explicitly temporary shall be construed as permanent residence; that absence of evidence of any other address will be considered verification that the visitor is a member of the household; that statements from neighbors and/or landlord will be considered; that the burden of proof that an individual is a visitor rests on the family, and in the absence of such proof the individual will be considered an unauthorized member of the household causing the family to be subject to termination of program assistance.)
- F. Failure to abide by necessary and reasonable rules made by the Housing Authority for the benefit and well-being of the housing development and the Residents,
- G. Failure to abide by applicable building and housing codes materially affecting health or safety,
- H. Failure to dispose of garbage, waste and rubbish in a safe and sanitary manner,
- I. Failure to use electrical, plumbing, sanitary, heating, ventilating, air conditioning and other equipment, including elevators, in a safe manner,
- J. Acts of destruction, defacement or removal of any part of the premises, or failure to cause guests to refrain from such acts,

- K. Failure to pay reasonable charges for the repair of damages to the premises, property buildings, facilities or common areas,
- L. Any activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other Residents or employees of the Authority,
- M. Any violent crime or drug-related criminal activity on or off the premises, not just on or near the premises,
- N. Alcohol abuse that the Landlord determines interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents,
- O. Failure to perform required community service,
- P. Determination that a family member has knowingly permitted an ineligible non-citizen not listed on the lease to permanently reside in their public housing unit,
- Q. Failure to allow inspection of the unit,
- R. Determination or discovery that a resident is a registered sex offender, or
- S. Any other good cause.

The Erie Metropolitan Housing Authority will take immediate action to evict any household that includes an individual who is subject to a lifetime registration requirement under a State sex offender registration program.

### **21.3 ABANDONMENT**

The Erie Metropolitan Housing Authority will consider a unit to be abandoned when a resident has both fallen behind in rent **AND** has clearly indicated by words or actions an intention not to continue living in the unit.

When a unit has been abandoned, an Erie Metropolitan Housing Authority representative may enter the unit and remove any abandoned property. It will be stored in a reasonably secure place. A notice will be mailed to the resident stating where the property is being stored and when it will be sold. If the Erie Metropolitan Housing Authority does not have a new address for the resident, the notice will be mailed to the unit address so it can be forwarded by the post office.

Upon notice of abandonment, the property will be held for 30 days in a secured place. If after such time Resident has not contacted the Housing Authority, the property will be sold, donated, or disposed thereof.

Any money raised by the sale of the property goes to cover money owed by the family to the Erie Metropolitan Housing Authority such as back rent and the cost of storing and selling the goods. If there is any money left over and the family's forwarding address is known the Erie Metropolitan Housing Authority will mail it to the family. If the family's address is not known, the Erie Metropolitan Housing Authority will keep it for the resident for one year. If it is not claimed within that time, it belongs to the Erie Metropolitan Housing Authority.

Within 30 calendar days of learning of abandonment, the Erie Metropolitan Housing Authority will either return the deposit or provide a statement of why the deposit is being kept.

#### **21.4 RETURN OF SECURITY DEPOSIT**

After a family moves out, the Erie Metropolitan Housing Authority will return the security deposit within 60 calendar days or give the family a written statement of why all or part of the security deposit is being kept. The rental unit must be restored to the same conditions as when the family moved in, except for normal wear and tear. Deposits will not be used to cover normal wear and tear or damage that existed when the family moved in.

If State law requires the payment of interest on security deposits; it shall be complied with.

The Erie Metropolitan Housing Authority will be considered in compliance with the above if the required payment, statement, or both, are deposited in the U.S. mail with first class postage paid within \_60 calendar days.

## **22.0 VIOLENCE AGAINST WOMEN ACT (VAWA)**

In accordance with VAWA 2005 and 2013, Erie Metropolitan Housing Authority incorporated and provides to applicants the following at time of admission to the public housing program:

1. Admission, Occupancy, and Termination of Assistance Policies. Sections 606 and 607 of the VAWA 2005 amendments provide that:
  - a. Being a victim of domestic violence, dating violence, or stalking, as these terms are defined in the law (hereafter collectively referred to as "abuse"), is not a basis for denial of assistance or admission to public or assisted housing if the applicant otherwise qualifies for assistance or admission;
  - b. Incidents or threats of abuse will not be construed as serious or repeated violations of the lease or other "good cause" for termination of the assistance, tenancy, or occupancy rights of a victim of abuse; and
  - c. Criminal activity directly relating to abuse, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or

an immediate member of the tenant's family is the victim or threatened victim of that abuse.

2. Rights and Responsibilities of PHAs, Owners, and Managers. The VAWA 2005 amendments, as recently amended by the technical corrections statute, and as applicable to public housing leases, provide that:
  - a. Notwithstanding the restrictions that VAWA 2005 places on admission, occupancy, and terminations of occupancy or assistance, as discussed in paragraph 1, or any federal, state, or local law to the contrary, a PHA, owner or manager may "bifurcate" a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant, and such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by federal, state, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing. VAWA 2005 also provides that the restrictions the law places on admission, occupancy, and termination of occupancy or assistance:
    - i. May not be construed to limit a PHA, owner, or manager from honoring various court orders issued to either protect the victim or address the distribution of property in case a family breaks up;
    - ii. Does not limit any otherwise available authority of a PHA, owner, or manager to terminate assistance or evict due to any lease violation not premised on the act of violence in question against the tenant or member of the tenant's household, provided that the owner or manager does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate assistance;
    - iii. May not be construed to limit the authority of a PHA, owner, or manager to terminate the assistance of, or evict, any occupant who can be demonstrated to pose an actual or imminent threat to other tenants or the property's employees; and
    - iv. Shall not be construed to supersede any provisions of federal, state, or local laws that provide greater protection for victims of abuse.
  - b. VAWA 2013 established that if a covered housing provider exercises the option to bifurcate a lease and the individual who was evicted or for whom assistance was terminated was the eligible tenant under the covered housing program, the covered housing provider shall provide to any remaining tenant or tenants that were not already eligible, unless prohibited, a period of 90 calendar days from the date of the bifurcation of the lease to: 1 – establish eligibility for the same covered housing program under which the evicted or terminated tenant was the recipient of assistance at the time of bifurcation of the lease; or 2 – establish eligibility

under another covered housing program; or 3 – find alternative housing. The 90 day period will not apply beyond the expiration of a lease, unless permitted. The covered housing provider may extend the 90 calendar day period up to an additional 60 calendar days, unless prohibited by statutory requirements or unless the time period would extend beyond expiration of the lease. Reference Section 5.2009(b)(2).

3. Certification of Abuse and Confidentiality. Sections 606 and 607 of VAWA 2005, and as recently amended by the technical corrections statute, add certification and confidentiality provisions that allow for a PHA, owner, or manager to request an individual to certify that the individual is a victim of abuse and that the incidences of abuse are bona fide. The certification must include the name of the perpetrator, and any other statutorily required information, and the victim must provide the certification within 14 business days after the individual receives a request for such certification from the PHA, owner, or manager. Without the certification, a PHA, owner, or manager may terminate assistance. All information provided to a PHA, owner, or manager is confidential. Notice of these rights must be given to tenants. The statute allows for the victim to self-certify and also allows for the certification requirement to be satisfied with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking or the effects of the abuse in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation. The statute also allows for the certification requirement to be satisfied by producing a federal, state, tribal, territorial, or local police or court record.

VAWA 2013 requires keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault or stalking against the tenant which is included in EMHA's emergency transfer form. Further, all information provided to the PHA/owner relating to the incident, including the fact of being a victim must be retained in confidence; this information must not be entered in to any shared data base nor provided to a related entity, except: 1. If requested or consented by the individual in writing; 2. If required for eviction or termination; or 3. Otherwise required by law.

4. Definitions Added to U.S. Housing Act of 1937. Section 606(3) and section 607(5) of VAWA 2005, and as recently amended by the technical corrections statute, also amend section 8(f) and section 6(d) of the U.S. Housing Act of 1937 to provide important definitions of terms, most notably:
  - a. A definition of "domestic violence" (42 U.S.C. 1437f(f)(8) and 42 U.S.C. 436d(u)(3)(A)), which is given the same meaning as this term is defined in section

40002 of the Violence Against Women Act of 1994 (VAWA 1994) as added by VAWA 2005. VAWA 2005 defines “domestic violence” to include “felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction 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”;

- b. A definition of “dating violence” (42 U.S.C. 1473f(f)(9) and 42 U.S.C. 1436d(u)(3)(B)), which is given the same meaning as this term as defined in section 40002 of VAWA 1994, as added by VAWA 2005. VAWA 2005 defines “dating violence” to mean “violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.”
  - c. A definition of “stalking” (42 U.S.C. 1437f(f)(10) and 42 U.S.C. 14736d(u)(3)(C)), that differs from the meaning of this term as defined in section 40002 of VAWA 1994, as added by VAWA 2005. The definition that is applicable to HUD’s public housing and section 8 assisted programs is a more detailed definition than that provided in section 40002 of VAWA 1994, as amended by VAWA 2005. For HUD covered programs, the definition of “stalking” is defined as follows. “Stalking means (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; or (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and (B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person; (ii) a member of the immediate family of that person; or (iii) the spouse or intimate partner of that person”; and
  - d. A definition of “immediate family member” (42 U.S.C. 1437f(f)(11) and 1437d(u)(3)(D)). “Immediate family member” is defined to mean, “with respect to a person (A) a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or (B) any other person living in the household of that person and related to that person by blood or marriage.”
5. Further, EMHA has updated its policy as of April 5, 2017, to adopt regulations in accordance with the 2013 Violence Against Women Act reauthorization. Specifically, EMHA incorporates the following and use of HUD Forms: HUD 5380, HUD 5381, HUD 5382, and HUD 5383.
- a. EMHA specifies “sexual assault” as a crime covered by VAWA in HUD-covered programs.

- b. EMHA establishes the definition of “affiliated individual” based on the statutory definition and that is usable and workable for HUD-covered programs.
- c. EMHA ensures that all existing and new tenants receive notification of their rights under VAWA regulations and that applicants/tenants receive notice at time of denial or termination of assistance.
- d. The Final Rule published on 11/16/2016 specifically incorporates the following for the voucher program and is adopted by EMHA as of 04/05/2017:

**(Reference § 960.103) Equal opportunity requirements and protection for victims of domestic violence, dating violence, sexual assault, or stalking.**

EMHA (PHA/housing provider) applies the requirements in 24 CFR part 5, subpart L (Protection. for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking). For purposes of compliance with HUD's regulations in 24 CFR part 5, subpart L, the covered housing provider is the PHA or owner, as applicable given the responsibilities of the covered housing provider as set forth in 24 CFR part 5, subpart L.

**(Reference §960.203) Standards for PHA tenant selection criteria.**

The PHA tenant selection criteria are subject to 24 CFR part 5, subpart L (Protection. for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking). In cases of requests for emergency transfers under VAWA, with the written consent of the victim of domestic violence, dating violence, sexual assault, or stalking, the receiving PHA may accept and use the prior covered housing provider’s determination of eligibility and tenant screening and all related verification information, including form HUD 50058 (Family Report).

**PART 966—PUBLIC HOUSING LEASE AND GRIEVANCE PROCEDURE**

**(Reference § 966.4) Lease requirements.**

HUD's regulations in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) apply.

To consider lease bifurcation, as provided in 24 CFR 5.2009, in circumstances involving domestic violence, dating violence, sexual assault, or stalking addressed in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), provided that, if a PHA chooses to bifurcate a lease, no assistance will be given for an individual who does not meet public housing eligibility and 24 CFR 5.508(h)(2) applies to submission of evidence of citizenship or eligible immigration status.

**Move costs**

The housing provider is not required to bear moving costs that tenants and their household members generally pay, including application fees and deposits, in addition to costs to physically move household and their belongings for emergency transfer.

## **23.0 LEAD-BASED PAINT**

Lead-Based Paint

Reference Subpart L—Public Housing Programs

Reference §35.1100

### ***PURPOSE AND APPLICABILITY.***

The purpose of this subpart L is to establish procedures to eliminate as far as practicable lead-based paint hazards in residential property assisted under the U.S. Housing Act of 1937 (42 U.S.C. 1437 et seq.) but not including housing assisted under section 8 of the 1937 Act.

Reference §35.1105

### ***DEFINITIONS AND OTHER GENERAL REQUIREMENTS.***

Reference §35.110

### ***DEFINITIONS.***

Abatement means any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards (see definition of “permanent”). Abatement includes:

- (1) The removal of lead-based paint and dust-lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards; and
- (2) All preparation, cleanup, disposal, and post abatement clearance testing activities associated with such measures.

Act means the Lead-Based Paint Poisoning Prevention Act, as amended, 42 U.S.C. 4822 et seq.

Bare soil means soil or sand not covered by grass, sod, other live ground covers, wood chips, gravel, artificial turf, or similar covering.

Certified means certified to perform such activities as risk assessment, lead-based paint inspection, abatement supervision, or renovation, either by a State or Indian tribe with a lead-based paint certification program authorized by the Environmental Protection Agency (EPA), in accordance with 40 CFR part 745, subpart Q, or by the EPA, in accordance with 40 CFR part 745, subparts E or L.

Chewable surface means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew. A chewable surface is the same as an “accessible surface” as defined in 42 U.S.C. 4851b(2)). Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

Clearance examination means an activity conducted following lead-based paint hazard reduction activities to determine that the hazard reduction activities are complete and that no soil-lead hazards or settled dust-lead hazards, as defined in this part, exist in the dwelling unit or worksite.



The clearance process includes a visual assessment and collection and analysis of environmental samples. Dust-lead standards for clearance are found at §35.1320.

Common area means a portion of a residential property that is available for use by occupants of more than one dwelling unit. Such an area may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, on-site day care facilities, garages and boundary fences.

Component means an architectural element of a dwelling unit or common area identified by type and location, such as a bedroom wall, an exterior window sill, a baseboard in a living room, a kitchen floor, an interior window sill in a bathroom, a porch floor, stair treads in a common stairwell, or an exterior wall.

Composite sample means a collection of more than one sample of the same medium (e.g., dust, soil or paint) from the same type of surface (e.g., floor, interior window sill, or window trough), such that multiple samples can be analyzed as a single sample.

Containment means the physical measures taken to ensure that dust and debris created or released during lead-based paint hazard reduction are not spread, blown or tracked from inside to outside of the worksite.

Designated party means a Federal agency, grantee, subrecipient, participating jurisdiction, housing agency, Indian Tribe, tribally designated housing entity (TDHE), sponsor, or property owner responsible for complying with applicable requirements.

Deteriorated paint means any interior or exterior paint or other coating that is peeling, chipping, chalking or cracking, or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

Dry sanding means sanding without moisture and includes both hand and machine sanding.

Dust-lead hazard means surface dust that contains a dust-lead loading (area concentration of lead) equal to or exceeding the levels promulgated by the EPA at 40 CFR 745.65 or, if such levels are not in effect, the standards for dust-lead hazards in §35.1320.

Dwelling unit means a:

- (1) Single-family dwelling, including attached structures such as porches and stoops; or
- (2) Housing unit in a structure that contains more than 1 separate housing unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or separate living quarters of 1 or more persons.

Elevated blood lead level means a confirmed concentration of lead in whole blood of a child under age 6 equal to or greater than the concentration in the most recent guidance published by the U.S. Department of Health and Human Services (HHS) on recommending that an environmental intervention be conducted. (When HHS changes the value, HUD will publish a

notice in the Federal Register, with the opportunity for public comment, on its intent to apply the changed value to this part, and, after considering comments, publish a notice on its applying the changed value to this part.)

Encapsulation means the application of a covering or coating that acts as a barrier between the lead-based paint and the environment and that relies for its durability on adhesion between the encapsulant and the painted surface, and on the integrity of the existing bonds between paint layers and between the paint and the substrate. Encapsulation may be used as a method of abatement if it is designed and performed so as to be permanent (see definition of “permanent”).

Enclosure means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment. Enclosure may be used as a method of abatement if it is designed to be permanent (see definition of “permanent”).

Environmental investigation means the process of determining the source of lead exposure for a child under age 6 with an elevated blood lead level, consisting of administration of a questionnaire, comprehensive environmental sampling, case management, and other measures, in accordance with chapter 16 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (“Guidelines”).

Evaluation means a risk assessment, a lead hazard screen, a lead-based paint inspection, paint testing, or a combination of these to determine the presence of lead-based paint hazards or lead-based paint, or an environmental investigation.

Expected to reside means there is actual knowledge that a child will reside in a dwelling unit reserved or designated exclusively for the elderly or reserved or designated exclusively for persons with disabilities. If a resident woman is known to be pregnant, there is actual knowledge that a child will reside in the dwelling unit.

Federal agency means the United States or any executive department, independent establishment, administrative agency and instrumentality of the United States, including a corporation in which all or a substantial amount of the stock is beneficially owned by the United States or by any of these entities. The term “Federal agency” includes, but is not limited to, Rural Housing Service (formerly Rural Housing and Community Development Service that was formerly Farmer's Home Administration), Resolution Trust Corporation, General Services Administration, Department of Defense, Department of Veterans Affairs, Department of the Interior, and Department of Transportation.

Federally owned property means residential property owned or managed by a Federal agency, or for which a Federal agency is a trustee or conservator.

Firm commitment means a valid commitment issued by HUD or the Federal Housing Commissioner setting forth the terms and conditions upon which a mortgage will be insured or guaranteed.

Friction surface means an interior or exterior surface that is subject to abrasion or friction, including, but not limited to, certain window, floor, and stair surfaces.

g means gram, mg means milligram (thousandth of a gram), and µg means microgram (millionth of a gram).

Grantee means any state or local government, Indian Tribe, IHBG recipient, insular area or nonprofit organization that has been designated by HUD to administer Federal housing assistance under a program covered by subparts J and K of this part, except the HOME program.

Hard costs of rehabilitation means:

- (1) Costs to correct substandard conditions or to meet applicable local rehabilitation standards;
- (2) Costs to make essential improvements, including energy-related repairs, and those necessary to permit use by persons with disabilities; and costs to repair or replace major housing systems in danger of failure; and
- (3) Costs of non-essential improvements, including additions and alterations to an existing structure; but
- (4) Hard costs do not include administrative costs (e.g., overhead for administering a rehabilitation program, processing fees, etc.).

Hazard reduction means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls or abatement or a combination of the two.

HEPA vacuum means a vacuum cleaner device with an included high-efficiency particulate air (HEPA) filter through which the contaminated air flows, operated in accordance with the instructions of its manufacturer. A HEPA filter is one that captures at least 99.97 percent of airborne particles of at least 0.3 micrometers in diameter.

Housing for the elderly means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more, or other age if recognized as elderly by a specific Federal housing assistance program.

Housing receiving Federal assistance means housing which is covered by an application for HUD mortgage insurance, receives housing assistance payments under a program administered by HUD, or otherwise receives more than \$5,000 in project-based assistance under a Federal housing program administered by an agency other than HUD.

HUD means the United States Department of Housing and Urban Development.

HUD-owned property means residential property owned or managed by HUD, or for which HUD is a trustee or conservator.

Impact surface means an interior or exterior surface that is subject to damage by repeated sudden force, such as certain parts of door frames.

Indian Housing Block Grant (IHBG) recipient means a tribe or a tribally designated housing entity (TDHE) receiving IHBG funds.

Indian tribe means a tribe as defined in the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.)

Inspection (See Lead-based paint inspection).

Insular areas means Guam, the Northern Mariana Islands, the United States Virgin Islands and American Samoa.

Interim controls means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based paint maintenance activities, and the establishment and operation of management and resident education programs.

Interior window sill means the portion of the horizontal window ledge that protrudes into the interior of the room, adjacent to the window sash when the window is closed. The interior window sill is sometimes referred to as the window stool.

Lead-based paint means paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter or 0.5 percent by weight or 5,000 parts per million (ppm) by weight.

Lead-based paint hazard means any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces, and that would result in adverse human health effects.

Lead-based paint inspection means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

Lead hazard screen means a limited risk assessment activity that involves paint testing and dust sampling and analysis as described in 40 CFR 745.227(c) and soil sampling and analysis as described in 40 CFR 745.227(d).

Mortgagee means a lender of a mortgage loan.

Mortgagor means a borrower of a mortgage loan.

Multifamily property means a residential property containing five or more dwelling units.

Occupant means a person who inhabits a dwelling unit.

Owner means a person, firm, corporation, nonprofit organization, partnership, government, guardian, conservator, receiver, trustee, executor, or other judicial officer, or other entity which, alone or with others, owns, holds, or controls the freehold or leasehold title or part of the title to property, with or without actually possessing it. The definition includes a vendee who possesses the title, but does not include a mortgagee or an owner of a reversionary interest under a ground rent lease.

Paint stabilization means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint.

Paint testing means the process of determining, by a certified lead-based paint inspector or risk assessor, the presence or the absence of lead-based paint on deteriorated paint surfaces or painted surfaces to be disturbed or replaced.

Paint removal means a method of abatement that permanently eliminates lead-based paint from surfaces.

Painted surface to be disturbed means a paint surface that is to be scraped, sanded, cut, penetrated or otherwise affected by rehabilitation work in a manner that could potentially create a lead-based paint hazard by generating dust, fumes, or paint chips.

Participating jurisdiction means any State or local government that has been designated by HUD to administer a HOME program grant.

Permanent means an expected design life of at least 20 years.

Play area means an area of frequent soil contact by children of less than 6 years of age, as indicated by the presence of play equipment (e.g. sandboxes, swing sets, sliding boards, etc.) or toys or other children's possessions, observations of play patterns, or information provided by parents, residents or property owners.

Project-based rental assistance means Federal rental assistance that is tied to a residential property with a specific location and remains with that particular location throughout the term of the assistance.

Public health department means a State, tribal, county or municipal public health department or the Indian Health Service.

Public housing development means a residential property assisted under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), but not including housing assisted under section 8 of the 1937 Act.

Reevaluation means a visual assessment of painted surfaces and limited dust and soil sampling conducted periodically following lead-based paint hazard reduction where lead-based paint is still present.

Rehabilitation means the improvement of an existing structure through alterations, incidental additions or enhancements. Rehabilitation includes repairs necessary to correct the results of deferred maintenance, the replacement of principal fixtures and components, improvements to increase the efficient use of energy, and installation of security devices.

Replacement means a strategy of abatement that entails the removal of building components that have surfaces coated with lead-based paint and the installation of new components free of lead-based paint.

Residential property means a dwelling unit, common areas, building exterior surfaces, and any surrounding land, including outbuildings, fences and play equipment affixed to the land, belonging to an owner and available for use by residents, but not including land used for agricultural, commercial, industrial or other non-residential purposes, and not including paint on the pavement of parking lots, garages, or roadways.

Risk assessment means:

- (1) An on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and
- (2) The provision of a report by the individual or firm conducting the risk assessment explaining the results of the investigation and options for reducing lead-based paint hazards.

Single family property means a residential property containing one through four dwelling units.

Single room occupancy (SRO) housing means housing consisting of zero-bedroom dwelling units that may contain food preparation or sanitary facilities or both (see Zero-bedroom dwelling).

Soil-lead hazard means bare soil on residential property that contains lead equal to or exceeding levels promulgated by the EPA at 40 CFR 745.65 or, if such levels are not in effect, the standards for soil-lead hazards in §35.1320.

Sponsor means mortgagor (borrower).

Subrecipient means any nonprofit organization selected by the grantee or participating jurisdiction to administer all or a portion of the Federal rehabilitation assistance or other non-rehabilitation assistance, or any such organization selected by a subrecipient of the grantee or participating jurisdiction. An owner or developer receiving Federal rehabilitation assistance or other assistance for a residential property is not considered a subrecipient for the purposes of carrying out that project.

Standard treatments means a series of hazard reduction measures designed to reduce all lead-based paint hazards in a dwelling unit without the benefit of a risk assessment or other evaluation.

Substrate means the material directly beneath the painted surface out of which the components are constructed, including wood, drywall, plaster, concrete, brick or metal.

Target housing means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless a child of less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any zero-bedroom dwelling. In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, HUD may designate an earlier date.

Tenant means the individual named as the lessee in a lease, rental agreement or occupancy agreement for a dwelling unit.

A visual assessment alone is not considered an evaluation for the purposes of this part. Visual assessment means looking for, as applicable:

- (1) Deteriorated paint;
- (2) Visible surface dust, debris, and residue as part of a risk assessment or clearance examination; or
- (3) The completion or failure of a hazard reduction measure.

Wet sanding or wet scraping means a process of removing loose paint in which the painted surface to be sanded or scraped is kept wet to minimize the dispersal of paint chips and airborne dust.

Window trough means the area between the interior window sill (stool) and the storm window frame. If there is no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered.

Worksite means an interior or exterior area where lead-based paint hazard reduction activity takes place. There may be more than one worksite in a dwelling unit or at a residential property.

Zero-bedroom dwelling means any residential dwelling in which the living areas are not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory or single room occupancy housing, military barracks, and rentals of individual rooms in residential dwellings (see Single room occupancy (SRO)).

Reference §35.115

***EXEMPTIONS.***

(a) Subparts B through R of this part do not apply to the following:

- (1) A residential property for which construction was completed on or after January 1, 1978, or, in the case of jurisdictions which banned the sale or residential use of lead-containing paint prior to 1978, an earlier date as HUD may designate (see §35.160).
- (2) A zero-bedroom dwelling unit, including a single room occupancy (SRO) dwelling unit.
- (3) Housing for the elderly, or a residential property designated exclusively for persons with disabilities; except this exemption shall not apply if a child less than age 6 resides or is expected to reside in the dwelling unit (see definitions of “housing for the elderly” and “expected to reside” in §35.110).
- (4) Residential property found not to have lead-based paint by a lead-based paint inspection conducted in accordance with §35.1320(a) (for more information regarding inspection procedures consult the 1997 edition of Chapter 7 of the HUD Guidelines). Results of additional test(s) by a certified lead-based paint inspector may be used to confirm or refute a prior finding.
- (5) Residential property in which all lead-based paint has been identified, removed, and clearance has been achieved in accordance with 40 CFR 745.227(b)(e) before September 15, 2000, or in accordance with §§35.1320, 35.1325 and 35.1340 on or after September 15, 2000. This exemption does not apply to residential property where enclosure or encapsulation has been used as a method of abatement.
- (6) An unoccupied dwelling unit or residential property that is to be demolished, provided the dwelling unit or property will remain unoccupied until demolition.
- (7) A property or part of a property that is not used and will not be used for human residential habitation, except that spaces such as entryways, hallways, corridors, passageways or stairways serving both residential and nonresidential uses in a mixed-use property shall not be exempt.
- (8) Any rehabilitation that does not disturb a painted surface.
- (9) For emergency actions immediately necessary to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage (such as when a property has been damaged by a natural disaster, fire, or structural collapse), occupants shall be protected from exposure to lead in dust and debris generated by such emergency actions to the extent practicable, and the requirements of subparts B through R of this part shall not apply. This exemption applies only to repairs necessary to respond to the emergency. The requirements of subparts B through R of this part shall apply to any work undertaken subsequent to, or above and beyond, such emergency actions.
- (10) If a Federal law enforcement agency has seized a residential property and owns the property for less than 270 days, §§35.210 and 35.215 shall not apply to the property.
- (11) The requirements of subpart K of this part do not apply if the assistance being provided is emergency rental assistance or foreclosure prevention assistance, provided that this exemption shall expire for a dwelling unit no later than 100 days after the initial payment or assistance.
- (12) Performance of an evaluation or lead-based paint hazard reduction or lead-based paint abatement on an exterior painted surface as required under this part may be delayed for a reasonable time during a period when weather conditions are unsuitable for conventional construction activities.



(13) Where abatement of lead-based paint hazards or lead-based paint is required by this part and the property is listed or has been determined to be eligible for listing in the National Register of Historic Places or contributing to a National Register Historic District, the designated party may, if requested by the State Historic Preservation Office, conduct interim controls in accordance with §35.1330 instead of abatement. If interim controls are conducted, ongoing lead-based paint maintenance and reevaluation shall be conducted as required by the applicable subpart of this part in accordance with §35.1355.

(b) For the purposes of subpart C of this part, each Federal agency other than HUD will determine whether appropriations are sufficient to implement this rule. If appropriations are not sufficient, subpart C of this part shall not apply to that Federal agency. If appropriations are sufficient, subpart C of this part shall apply.

Reference §35.120

***OPTIONS.***

(a) Standard treatments. Where interim controls are required by this part, the designated party has the option to presume that lead-based paint or lead-based paint hazards or both are present throughout the residential property. In such a case, evaluation is not required. Standard treatments shall then be conducted in accordance with §35.1335 on all applicable surfaces, including soil. Standard treatments are completed only when clearance is achieved in accordance with §35.1340.

(b) Abatement. Where abatement is required by this part, the designated party may presume that lead-based paint or lead-based paint hazards or both are present throughout the residential property. In such a case, evaluation is not required. Abatement shall then be conducted on all applicable surfaces, including soil, in accordance with §35.1325, and completed when clearance is achieved in accordance with §35.1340. This option is not available in public housing, where inspection is required.

(c) Lead hazard screen. Where a risk assessment is required, the designated party may choose first to conduct a lead hazard screen in accordance with §35.1320(b). If the results of the lead hazard screen indicate the need for a full risk assessment (e.g., if the environmental measurements exceed levels established for lead hazard screens in §35.1320(b)(2)), a complete risk assessment shall be conducted. Environmental samples collected for the lead hazard screen may be used in the risk assessment. If the results of the lead hazard screen do not indicate the need for a follow-up risk assessment, a risk assessment is not required.

(d) Paint testing. Where paint stabilization or interim controls of deteriorated paint surfaces are required by this rule, the designated party has the option to conduct paint testing of all surfaces with non-intact paint. If paint testing indicates the absence of lead-based paint on a specific surface, paint stabilization or interim controls are not required on that surface.

Reference §35.125

***NOTICE OF EVALUATION AND HAZARD REDUCTION ACTIVITIES.***

The following activities shall be conducted if notice is required by subparts D and F through M of this part.

(a) Notice of evaluation or presumption. When evaluation is undertaken and lead-based paint or lead-based paint hazards are found to be present, or if a presumption is made that lead-based paint or lead-based paint hazards are present in accordance with the options described in §35.120, the designated party shall provide a notice to occupants within 15 calendar days of the date when the designated party receives the report or makes the presumption. A visual assessment alone is not considered an evaluation for the purposes of this part. If only a visual assessment alone is required by this part, and no evaluation is performed, a notice of evaluation or presumption is not required.

(1) The notice of the evaluation shall include:

- (i) A summary of the nature, dates, scope, and results of the evaluation;
- (ii) A contact name, address and telephone number for more information, and to obtain access to the actual evaluation report; and
- (iii) The date of the notice.

(2) The notice of presumption shall include:

- (i) The nature and scope of the presumption;
- (ii) A contact name, address and telephone number for more information; and
- (iii) The date of the notice.

(b) Notice of hazard reduction activity. When hazard reduction activities are undertaken, each designated party shall:

(1) Provide a notice to occupants not more than 15 calendar days after the hazard reduction activities (including paint stabilization) have been completed. Notice of hazard reduction shall include, but not be limited to:

- (i) A summary of the nature, dates, scope, and results (including clearance) of the hazard reduction activities;
- (ii) A contact name, address, and telephone number for more information;
- (iii) Available information on the location of any remaining lead-based paint in the rooms, spaces, or areas where hazard reduction activities were conducted, on a surface-by-surface basis; and
- (iv) The date of the notice.

(2) Update the notice, based on reevaluation of the residential property and as any additional hazard reduction work is conducted.

(3) Provision of a notice of hazard reduction is not required if a clearance examination is not required.

- (c) Availability of notices of evaluation, presumption, and hazard reduction activities.
- (1) The notices of evaluation, presumption, and hazard reduction shall be of a size and type that is easily read by occupants.
  - (2) To the extent practicable, each notice shall be made available, upon request, in a format accessible to persons with disabilities (e.g., Braille, large type, computer disk, audio tape).
  - (3) Each notice shall be provided in the occupants' primary language or in the language of the occupants' contract or lease.
  - (4) The designated party shall provide each notice to the occupants by:
    - (i) Posting and maintaining it in centrally located common areas and distributing it to any dwelling unit if necessary because the head of household is a person with a known disability; or
    - (ii) Distributing it to each occupied dwelling unit affected by the evaluation, presumption, or hazard reduction activity or serviced by common areas in which an evaluation, presumption or hazard reduction has taken place.
    - (iii) However, for the protection of the privacy of the child and the child's family or guardians, no notice of environmental investigation shall be posted to any centrally located common area.

[64 FR 50202, Sept. 15, 1999, as amended at 69 FR 34271, June 21, 2004; 82 FR 4167, Jan. 13, 2017]

Reference §35.130

***LEAD HAZARD INFORMATION PAMPHLET.***

If provision of a lead hazard information pamphlet is required in subparts D and F through M of this part, the designated party shall provide to each occupied dwelling unit to which subparts D and F through M of this part apply, the lead hazard information pamphlet developed by EPA, HUD and the Consumer Product Safety Commission pursuant to section 406 of the Toxic Substances Control Act (15 U.S.C. 2686), or an EPA-approved alternative; except that the designated party need not provide a lead hazard information pamphlet if the designated party can demonstrate that the pamphlet has already been provided in accordance with the lead-based paint notification and disclosure requirements at §35.88(a)(1), or 40 CFR 745.107(a)(1) or in accordance with the requirements for hazard education before renovation at 40 CFR part 745, subpart E.

Reference §35.135

***USE OF PAINT CONTAINING LEAD.***

(a) New use prohibition. The use of paint containing more than 0.06 percent dry weight of lead on any interior or exterior surface in federally owned housing or housing receiving Federal assistance is prohibited. As appropriate, each Federal agency shall include the prohibition in contracts, grants, cooperative agreements, insurance agreements, guaranty agreements, trust agreements, or other similar documents.

(b) Pre-1978 prohibition. In the case of a jurisdiction which banned the sale or residential use of lead-containing paint before 1978, HUD may designate an earlier date for certain provisions of subparts D and F through M of this part.

Reference §35.140

***PROHIBITED METHODS OF PAINT REMOVAL.***

The following methods shall not be used to remove paint that is, or may be, lead-based paint:

- (a) Open flame burning or torching.
- (b) Machine sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control.
- (c) Abrasive blasting or sandblasting without HEPA local exhaust control.
- (d) Heat guns operating above 1100 degrees Fahrenheit or charring the paint.
- (e) Dry sanding or dry scraping, except dry scraping in conjunction with heat guns or within 1.0 ft. (0.30 m.) of electrical outlets, or when treating defective paint spots totaling no more than 2 sq. ft. (0.2 sq. m.) in any one interior room or space, or totaling no more than 20 sq. ft. (2.0 sq. m.) on exterior surfaces.
- (f) Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations of the Consumer Product Safety Commission at 16 CFR 1500.3, and/or a hazardous chemical in accordance with the Occupational Safety and Health Administration regulations at 29 CFR 1910.1200 or 1926.59, as applicable to the work.

Reference §35.145

***COMPLIANCE WITH FEDERAL LAWS AND AUTHORITIES.***

All lead-based paint activities, including waste disposal, performed under this part shall be performed in accordance with applicable Federal laws and authorities. For example, such activities are subject to the applicable environmental review requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Toxic Substances Control Act, Title IV (15 U.S.C. 2860 et seq.), and other environmental laws and authorities (see, e.g., laws and authorities listed in §50.4 of this title).

Reference §35.150

***COMPLIANCE WITH OTHER STATE, TRIBAL, AND LOCAL LAWS.***

(a) HUD responsibility. If HUD determines that a State, tribal or local law, ordinance, code or regulation provides for evaluation or hazard reduction in a manner that provides a comparable level of protection from the hazards of lead-based paint poisoning to that provided by the requirements of subparts B, C, D, F through M and R of this part and that adherence to the requirements of subparts B, C, D, F through M, and R of this part, would be duplicative or otherwise cause inefficiencies, HUD may modify or waive some or all of the requirements of the subparts in a manner that will promote efficiency while ensuring a comparable level of protection.

(b) Participant responsibility. Nothing in this part is intended to relieve any participant in a program covered by this subpart of any responsibility for compliance with State, tribal or local laws, ordinances, codes or regulations governing evaluation and hazard reduction. If a State, tribal or local law, ordinance, code or regulation defines lead-based paint differently than the Federal definition, the more protective definition (i.e., the lower level) shall be followed in that State, tribal or local jurisdiction.

Reference §35.155

***MINIMUM REQUIREMENTS.***

(a) Nothing in subparts B, C, D, F through M, and R of this part is intended to preclude a designated party or owner from conducting additional evaluation or hazard reduction measures beyond the minimum requirements established for each program in this regulation. For example, if the applicable subpart requires visual assessment, the designated party may choose to perform a risk assessment in accordance with §35.1320. Similarly, if the applicable subpart requires interim controls, a designated party or owner may choose to implement abatement in accordance with §35.1325.

(b) To the extent that assistance from any of the programs covered by subparts B, C, D, and F through M of this part is used in conjunction with other HUD program assistance, the most protective requirements prevail.

[64 FR 50202, Sept. 15, 1999, as amended at 82 FR 4167, Jan. 13, 2017]

Reference §35.160

***WAIVERS.***

In accordance with §5.110 of this title, on a case-by-case basis and upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of subparts B, C, D, F through M, and R of this part.

Reference §35.165

***PRIOR EVALUATION OR HAZARD REDUCTION.***

If an evaluation or hazard reduction was conducted at a residential property or dwelling unit before the property or dwelling unit became subject to the requirements of subparts B, C, D, F through M, and R of this part, such an evaluation, hazard reduction or abatement meets the requirements of subparts B, C, D, F through M, and R of this part and need not be repeated under the following conditions:

(a) Lead-based paint inspection.

(1) A lead-based paint inspection conducted before March 1, 2000, meets the requirements of this part if:

(i) At the time of the inspection the lead-based paint inspector was approved by a State or Indian tribe to perform lead-based paint inspections. It is not necessary that the State or tribal approval program had EPA authorization at the time of the inspection.

(ii) Notwithstanding paragraph (a)(1)(i) of this section, the inspection was conducted and accepted as valid by a housing agency in fulfillment of the lead-based paint inspection requirement of the public and Indian housing program.

(2) A lead-based paint inspection conducted on or after March 1, 2000, must have been conducted by a certified lead-based paint inspector.

(b) Risk assessment.

(1) A risk assessment must be no more than 12 months old to be considered current.

(2) A risk assessment conducted before March 1, 2000, meets the requirements of this part if, at the time of the risk assessment, the risk assessor was approved by a state or Indian Tribe to perform risk assessments. It is not necessary that the state or tribal approval program had EPA authorization at the time of the risk assessment.

(3) A risk assessment conducted on or after March 1, 2000, must have been conducted by a certified risk assessor.

(4) Paragraph (b) of this section does not apply in a case where a risk assessment is required in response to the identification of a child with an elevated blood lead level. In such a case, the requirements in the applicable subpart for responding to a child with an elevated blood lead level shall apply.

(c) Interim controls. If a residential property is under a program of interim controls and ongoing lead-based paint maintenance and reevaluation activities established pursuant to a risk assessment conducted in accordance with paragraph (b) of this section, the interim controls that have been conducted meet the requirements of this part if clearance was achieved after such controls were implemented. In such a case, the program of interim controls and ongoing activities shall be continued in accordance with the requirements of this part.

(d) Abatement.

(1) An abatement conducted before March 1, 2000, meets the requirements of this part if:

(i) At the time of the abatement the abatement supervisor was approved by a State or Indian tribe to perform lead-based paint abatement. It is not necessary that the State or tribal approval program had EPA authorization at the time of the abatement.

(ii) Notwithstanding paragraph (d)(1)(i) of this section, it was conducted and accepted by a housing agency in fulfillment of the lead-based paint abatement requirement of the public housing program or by an Indian housing authority (as formerly defined under the U.S. Housing Act of 1937) in fulfillment of the lead-based paint requirement of the Indian housing program formerly funded under the U.S. Housing Act of 1937.

(2) An abatement conducted on or after March 1, 2000, must have been conducted under the supervision of a certified lead-based paint abatement supervisor.

[64 FR 50202, Sept. 15, 1999; 65 FR 3387, Jan. 21, 2000, as amended at 69 FR 34272, June 21, 2004; 82 FR 4167, Jan. 13, 2017]

Reference §35.170

***NONCOMPLIANCE WITH THE REQUIREMENTS OF SUBPARTS B THROUGH R OF THIS PART.***

(a) Monitoring and enforcement. A designated party who fails to comply with any requirement of subparts B, C, D, F through M, and R of this part shall be subject to the sanctions available under the relevant Federal housing assistance or ownership program and may be subject to other penalties authorized by law.

(b) A property owner who informs a potential purchaser or occupant of lead-based paint or possible lead-based paint hazards in a residential property or dwelling unit, in accordance with subpart A of this part, is not relieved of the requirements to evaluate and reduce lead-based paint hazards in accordance with subparts B through R of this part as applicable.

Reference §35.175

**RECORDS.**

The designated party, as specified in subparts C, D, and F through M of this part, shall keep a copy of each notice, evaluation, and clearance or abatement report required by subparts C, D, and F through M of this part for at least three years. Those records applicable to a portion of a residential property for which ongoing lead-based paint maintenance and/or reevaluation activities are required shall be kept and made available for the Department's review, until at least three years after such activities are no longer required.

Reference §35.1110

**NOTICES AND PAMPHLET.**

(a) Notice. In cases where evaluation or hazard reduction is undertaken, each public housing agency (PHA) shall provide a notice to residents in accordance with §35.125. A visual assessment alone is not considered an evaluation for purposes of this part.

(b) Lead hazard information pamphlet. The PHA shall provide the lead hazard information pamphlet in accordance with §35.130.

[64 FR 50215, Sept. 15, 1999, as amended at 69 FR 34273, June 21, 2004]

Reference §35.1115

**EVALUATION.**

(a) A lead-based paint inspection shall be conducted in all public housing unless a lead-based paint inspection that meets the conditions of §35.165(a) has already been completed. If a lead-based paint inspection was conducted by a lead-based paint inspector who was not certified, the PHA shall review the quality of the inspection, in accordance with quality control procedures established by HUD, to determine whether the lead-based paint inspection has been properly performed and the results are reliable. Lead-based paint inspections of all housing to which this subpart applies shall be completed no later than September 15, 2000. Revisions or augmentations of prior inspections found to be of insufficient quality shall be completed no later than September 17, 2001.

(b) If a lead-based paint inspection has found the presence of lead-based paint, or if no lead-based paint inspection has been conducted, the PHA shall conduct a risk assessment according to the following schedule, unless a risk assessment that meets the conditions of §35.165(b) has already been completed:

(1) Risk assessments shall be completed on or before March 15, 2001, in a multifamily residential property constructed before 1960.

(2) Risk assessments shall be completed on or before March 15, 2002, in a multifamily residential property constructed after 1959 and before 1978.



(c) A PHA that advertises a construction contract (including architecture/engineering contracts) for bid or award or plans to start force account work shall not execute such contract until a lead-based paint inspection and, if required, a risk assessment, has taken place and any necessary abatement is included in the modernization budget, except for contracts solely for emergency work in accordance with §35.115(a)(9).

(d) The five-year funding request plan for CIAP and CGP shall be amended to include the schedule and funding for lead-based paint activities.

Reference §35.1120

***HAZARD REDUCTION.***

(a) Each PHA shall, in accordance with §35.1325, abate all lead-based paint and lead-based paint hazards identified in the evaluations conducted pursuant to §35.1115. The PHA shall abate lead-based paint and lead-based paint hazards in accordance with §35.1325 during the course of physical improvements conducted under the modernization.

(b) In all housing where abatement of all lead-based paint and lead-based paint hazards required in paragraph (a) of this section has not yet occurred, each PHA shall conduct interim controls, in accordance with §35.1330, of the lead-based paint hazards identified in the most recent risk assessment.

(1) Interim controls of dwelling units in which any child who is less than 6 years of age resides and common areas servicing those dwelling units shall be completed within 90 days of the evaluation under §35.1330. If a unit becomes newly occupied by a family with a child of less than 6 years of age or such child moves into a unit, interim controls shall be completed within 90 days after the new occupancy or move-in if they have not already been completed.

(2) Interim controls in dwelling units not occupied by families with one or more children of less than 6 years of age, common areas servicing those units, and the remaining portions of the residential property shall be completed no later than 12 months after completion of the evaluation conducted under §35.1115.

(c) The PHA shall incorporate ongoing lead-based paint maintenance and reevaluation activities into regular building operations in accordance with §35.1355. In accordance with §35.115(a) (6) and (7), this requirement does not apply to a development or part thereof if it is to be demolished or disposed of in accordance with disposition requirements in part 970 of this title, provided the dwelling unit will remain unoccupied until demolition, or if it is not used and will not be used for human habitation.

Reference §35.1125

***EVALUATION AND HAZARD REDUCTION BEFORE ACQUISITION AND DEVELOPMENT.***

- (a) For each residential property constructed before 1978 and proposed to be acquired for a family project (whether or not it will need rehabilitation) a lead-based paint inspection and risk assessment for lead-based paint hazards shall be conducted in accordance with §35.1320.
- (b) If lead-based paint is found in a residential property to be acquired, the cost of evaluation and abatement shall be considered when making the cost comparison to justify new construction, as well as when meeting maximum total development cost limitations.
- (c) If lead-based paint is found, compliance with this subpart is required, and abatement of lead-based paint and lead-based paint hazards shall be completed in accordance with §35.1325 before occupancy.

Reference §35.1130

***CHILD WITH AN ELEVATED BLOOD LEAD LEVEL.***

- (a) Environmental investigation. Within 15 calendar days after being notified by a public health department or other medical health care provider that a child of less than 6 years of age living in a dwelling unit to which this subpart applies has been identified as having an elevated blood lead level, the PHA shall complete an environmental investigation of the dwelling unit in which the child lived at the time the blood was last sampled and of common areas servicing the dwelling unit. The environmental investigation is considered complete when the PHA receives the environmental investigation report. The requirements of this paragraph apply regardless of whether the child is or is not still living in the unit when the PHA receives the notification of the elevated blood lead level. The requirements of this paragraph shall not apply if the PHA conducted an environmental investigation of the unit and common areas servicing the unit between the date the child's blood was last sampled and the date when the PHA received the notification of the elevated blood lead level. If the PHA conducted a risk assessment of the unit and common areas servicing the unit during that period, the PHA need not conduct another risk assessment there but shall conduct the elements of an environmental investigation not already conducted during the risk assessment. If a public health department has already conducted an evaluation of the dwelling unit in regard to the child's elevated blood lead level case, the requirements of this paragraph shall not apply.
- (b) Verification. After receiving information from a person who is not a medical health care provider that a child of less than 6 years of age living in a dwelling unit covered by this subpart may have an elevated blood lead level, the PHA shall immediately verify the information with the public health department or other medical health care provider. If that department or provider denies the request, such as because it does not have the capacity to verify that information, the PHA shall send documentation of the denial to its HUD field office, who shall make an effort to verify the information. If that department or provider verifies that the child has an elevated blood

lead level, such verification shall constitute notification, and the housing agency shall take the action required in paragraphs (a) and (c) of this section.

(c) Lead-based paint hazard reduction. Within 30 calendar days after receiving the report of the environmental investigation conducted pursuant to paragraph (a) of this section or the evaluation from the public health department, the PHA shall complete the reduction of identified lead-based paint hazards in accordance with §35.1325 or §35.1330. Lead-based paint hazard reduction is considered complete when clearance is achieved in accordance with §35.1340 and the clearance report states that all lead-based paint hazards identified in the environmental investigation have been treated with interim controls or abatement or the local or State health department certifies that the lead-based paint hazard reduction is complete. The requirements of this paragraph do not apply if the PHA, between the date the child's blood was last sampled and the date the PHA received the notification of the elevated blood lead level, already conducted an environmental investigation of the unit and common areas servicing the unit and completed reduction of identified lead-based paint hazards. If the PHA conducted a risk assessment of the unit and common areas servicing the unit during that period, it is not required to conduct another risk assessment there but it shall conduct the elements of an environmental investigation not already conducted during the risk assessment. If the PHA does not complete the lead-based paint hazard reduction required by this section, the dwelling unit is in violation of the standards of 24 CFR 965.601, which incorporates the uniform physical condition standards of §5.703(f), including that it be free of lead-based paint hazards.

(d) Notice of lead-based paint hazard evaluation and reduction. The PHA shall notify building residents of any lead-based paint hazard evaluation or reduction activities in accordance with §35.125.

(e) Reporting requirement.

(1) The PHA shall report the name and address of a child identified as having an elevated blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

(2) The PHA shall report each confirmed case of a child with an elevated blood lead level to the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes within 5 business days of being so notified.

(3) The PHA shall provide to the HUD field office documentation that it has conducted the activities of paragraphs (a) through (d) of this section, within 10 business days of the deadline for each activity.

(f) Other units in the property.

(1) If the environmental investigation conducted pursuant to paragraph (a) of this section identifies lead-based paint hazards, the PHA shall conduct a risk assessment of other units of the building in which a child under age 6 resides or is expected to reside on the date lead-based paint hazard reduction under paragraph (c) of this section is complete, and the common areas servicing those units within 30 calendar days after receipt of the environmental investigation report if there are 20 or fewer such other units, or 60 calendar days if there are more such units.

(2) If the risk assessment conducted under paragraph (f)(1) of this section identifies lead-based paint hazards, the PHA shall control the hazards, in accordance with Sec. 35.1325 or §35.1330, in those units and common areas within 30 calendar days, or within 90 calendar days if more than 20 units have lead-based paint hazards such that the control work would disturb painted surfaces that total more than the de minimis threshold of §35.1350(d). Lead-based paint hazard reduction is considered complete when clearance is achieved in accordance with §35.1340 and the clearance report states that all lead-based paint hazards identified in the risk assessment have been treated with interim controls or abatement.

(3) The PHA shall provide to the HUD field office documentation that it has conducted the activities of paragraphs (f)(1) and (2) of this section, within 10 business days of the deadline for each activity.

(4) The requirements of this paragraph (f) of this section do not apply if:

(i) The PHA, between the date the child's blood was last sampled and the date the PHA received the notification of the elevated blood lead level, both conducted a risk assessment of the other assisted dwelling units covered by paragraph (f)(1) of this section and the common areas servicing those units, and conducted interim controls of identified hazards in accordance with §35.1120(b); or

(ii) If the PHA has documentation of compliance with evaluation, notification, lead disclosure, ongoing lead-based paint maintenance, and lead-based paint management requirements under this part throughout the 12 months preceding the date the PHA received the environmental investigation report pursuant to paragraph (a) of this section; and,

(iii) In either case, the PHA provided the HUD field office, within 10 business days after receiving the notification of the elevated blood lead level, documentation that it has conducted the activities described in this paragraph (f)(4) of this section.

[82 FR 4169, Jan. 13, 2017]

## GLOSSARY

**50058 Form:** The HUD form that housing authorities are required to complete for each assisted household in public housing to record information used in the certification and re-certification process and, at the option of the housing authority, for interim reexaminations.

**1937 Housing Act:** The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) (24 CFR 5.100)

**Adjusted Annual Income:** The amount of household income, after deductions for specified allowances, on which tenant rent is based. (24 CFR 5.611)

**Adult:** A household member who is 18 years or older or who is the head of the household, or spouse, or co-head.

**Affiliated Individual:** A – 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 B – any individual, tenant, or lawful occupant living in the household of that individual.

**Allowances:** Amounts deducted from the household's annual income in determining adjusted annual income (the income amount used in the rent calculation). Allowances are given for elderly families, dependents, medical expenses for elderly families, disability expenses, and child care expenses for children under 13 years of age. Other allowance can be given at the discretion of the housing authority.

**Annual Contributions Contract (ACC):** The written contract between HUD and a housing authority under which HUD agrees to provide funding for a program under the 1937 Act, and the housing authority agrees to comply with HUD requirements for the program. (24 CFR 5.403)

**Annual Income:** All amounts, monetary or not, that:

- A. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member; or
- B. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- C. Are not specifically excluded from annual income.

Annual Income also includes amounts derived (during the 12-month period) from assets to which any member of the family has access. (1937 Housing Act; 24 CFR 5.609)

**Applicant (applicant family):** A person or family that has applied for admission to a program but is not yet a participant in the program. (24 CFR 5.403)

**As Paid States:** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs. Currently, the four as-paid States are New Hampshire, New York, Oregon, and Vermont.

**Assets:** The value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles are not counted as assets. (Also see "net family assets.")

**Asset Income:** Income received from assets held by family members. If assets total more than \$5,000, income from the assets is "imputed" and the greater of actual asset income and imputed asset income is counted in annual income. (See "imputed asset income" below.)

**Ceiling Rent:** Maximum rent allowed for some units in public housing projects.

**Certification:** The examination of a household's income, expenses, and family composition to determine the family's eligibility for program participation and to calculate the family's share of rent.

**Child:** For purposes of citizenship regulations, a member of the family other than the family head or spouse who is under 18 years of age. (24 CFR 5.504(b))

**Child Care Expenses:** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income. (24 CFR 5.603(d))

**Citizen:** A citizen or national of the United States. (24 CFR 5.504(b))

**Consent Form:** Any consent form approved by HUD to be signed by assistance applicants and participants for the purpose of obtaining income information from employers and SWICAs, return information from the Social Security Administration, and return information for unearned income from the Internal Revenue Service. The consent forms may authorize the collection of other information from assistance applicants or participant to determine eligibility or level of benefits. (24 CFR 5.214)

**Covered Housing Provider:** For HUD's public housing program, "covered housing provider," is the public housing authority (PHA).

**Decent, Safe, and Sanitary:** Housing is decent, safe, and sanitary if it satisfies the applicable housing quality standards.

**Department:** The Department of Housing and Urban Development. (24 CFR 5.100)

**Dependent:** A member of the family (except foster children and foster adults), other than the family head or spouse, who is under 18 years of age or is a person with a disability or is a full-time student. (24 CFR 5.603(d))

**Dependent Allowance:** An amount, equal to \$480 multiplied by the number of dependents, that is deducted from the household's annual income in determining adjusted annual income.

**Disability Assistance Expenses:** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source. (24 CFR 5.603(d))

**Disability Assistance Expense Allowance:** In determining adjusted annual income, the amount of disability assistance expenses deducted from annual income for families with a disabled household member.

**Disabled Family:** A family whose head, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides. (24 CFR 5.403(b)) (Also see "person with disabilities.")

**Disabled Person:** See "person with disabilities."

**Displaced Family:** A family in which each member, or whose sole member, is a person displaced by governmental action (such as urban renewal), or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. (24 CFR 5.403(b))

**Displaced Person:** A person displaced by governmental action or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. *[1937 Act]*

**Drug-Related Criminal Activity:** Drug trafficking or the illegal use, or possession for personal use, of a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802).

**Elderly Family:** A family whose head, spouse, or sole member is a person who is at least 62 years of age; 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. (24 CFR 5.403)

**Elderly Family Allowance:** For elderly families, an allowance of \$400 is deducted from the household's annual income in determining adjusted annual income.

**Elderly Person:** A person who is at least 62 years of age. (1937 Housing Act)

**Extremely low-income families:** Very low-income families whose income does not exceed the higher of 30 percent of the area median income or the federal poverty level. (PIH Notice 2016-05 - 24 CFR 5.603, 903.7, and 960.102)

**Fair Housing Act:** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.). (24 CFR 5.100)

**Family** includes but is not limited to:

- A. A family with or without children;
- B. An elderly family;
- C. A near-elderly family;
- D. A disabled family;
- E. A displaced family;
- F. The remaining member of a tenant family; and
- G. A single person who is not an elderly or displaced person, a person with disabilities, or the remaining member of a tenant family. (24 CFR 5.403)

**Family Members:** All members of the household other than live-in aides, foster children, and foster adults. All family members permanently reside in the unit, though they may be temporarily absent. All family members are listed on the lease.

**Family Self-Sufficiency Program (FSS Program):** The program established by a housing authority to promote self-sufficiency among participating families, including the coordination of supportive services. (24 CFR 984.103(b))

**Flat Rent:** A rent amount the family may choose to pay in lieu of having their rent determined under the formula method. The flat rent is established by the housing authority set at the lesser of the market value for the unit or the cost to operate the unit. Families selecting the flat rent option have their income evaluated once every three years, rather than annually.

**Formula Method:** A means of calculating a family's rent based on 10% of their monthly income, 30% of their adjusted monthly income, the welfare rent, or the minimum rent. Under the



formula method, rents may be capped by a ceiling rent. Under this method, the family's income is evaluated at least annually.

**Full-Time Student:** A person who is carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree. (24 CFR 5.603(d))

**Head of Household:** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent. (24 CFR 5.504(b))

**Household Members:** All members of the household including members of the family, live-in aides, foster children, and foster adults. All household members are listed on the lease, and no one other than household members are listed on the lease.

**Housing Assistance Plan:** A housing plan that is submitted by a unit of general local government and approved by HUD as being acceptable under the standards of 24 CFR 570.

**Imputed Income:** For households with net family assets of more than \$5,000, the amount calculated by multiplying net family assets by a HUD-specified percentage. If imputed income is more than actual income from assets, the imputed amount is used as income from assets in determining annual income.

**In-Kind Payments:** Contributions other than cash made to the family or to a family member in exchange for services provided or for the general support of the family (e.g., groceries provided on a weekly basis, baby sitting provided on a regular basis).

**Interim (examination):** A reexamination of a family income, expenses, and household composition conducted between the regular annual re-certifications when a change in a household's circumstances warrants such a reexamination.

**Intimate Partner:** 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.

**Live-In Aide:** A person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities and who:

- A. Is determined to be essential to the care and well-being of the persons;
- B. Is not obligated for the support of the persons; and
- C. Would not be living in the unit except to provide the necessary supportive services. (24 CFR 5.403(b))

**Low-Income Families:** Those families whose incomes do not exceed 80% of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80% of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes. (1937Act)

**Medical Expenses:** Medical expenses (of all family members of an elderly or disabled family), including medical insurance premiums, that are anticipated during the period for which annual income is computed and that are not covered by insurance. (24 CFR 5.603(d)). These expenses include, but are not limited to, prescription and non-prescription drugs, costs for doctors, dentists, therapists, medical facilities, care for a service animals, transportation for medical purposes.

**Mixed Family:** A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status. (24 CFR 5.504(b))

**Monthly Adjusted Income:** One twelfth of adjusted income. (24 CFR 5.603(d))

**Monthly Income:** One twelfth of annual income. (24 CFR 5.603(d))

**National:** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession. (24 CFR 5.504(b))

**Near-Elderly Family:** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides. (24 CFR 5.403(b))

**Net Family Assets:**

- A. Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.
- B. In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income.
- C. In determining net family assets, housing authorities or owners, as applicable, shall include the value of any business or family assets disposed of by an

applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms. (24 CFR 5.603(d))

**Non-Citizen:** A person who is neither a citizen nor national of the United States. (24 CFR 5.504(b))

**Occupancy Standards:** The standards that a housing authority establishes for determining the appropriate number of bedrooms needed to house families of different sizes or composition.

**Person with Disabilities:** A person who:

A. Has a disability as defined in Section 223 of the Social Security Act, which states:

"Inability to engage in any substantial, gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months, or

In the case of an individual who attained the age of 55 and is blind and unable by reason of such blindness to engage in substantial, gainful activity requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time."

B. Is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment that:

1. Is expected to be of long-continued and indefinite duration;
2. Substantially impedes his or her ability to live independently; and
3. Is of such a nature that such ability could be improved by more suitable housing conditions, or

C. Has a developmental disability as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act, which states:

"Severe chronic disability that:

1. Is attributable to a mental or physical impairment or combination of mental and physical impairments;

2. Is manifested before the person attains age 22;
3. Is likely to continue indefinitely;
4. Results in substantial functional limitation in three or more of the following areas of major life activity: (1) self-care, (2) receptive and responsive language, (3) learning, (4) mobility, (e) self-direction, (6) capacity for independent living, and (7) economic self-sufficiency; and
5. 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."

This definition does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. (1937 Act)

No individual shall be considered to be a person with disabilities for purposes of eligibility solely based on any drug or alcohol dependence.

**Pro-ration of Assistance:** The reduction in a family's housing assistance payment to reflect the proportion of family members in a mixed family who are eligible for assistance. (24 CFR5.520)

**Public Housing Agency (PHA):** Any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing under the 1937 Housing Act. (24 CFR 5.100)

**Re-certification:** The annual reexamination of a family's income, expenses, and composition to determine the family's rent.

**Remaining Member of a Tenant Family:** A member of the family listed on the lease who continues to live in the public housing dwelling after all other family members have left. (Handbook 7565.1 REV-2, 3-5b.)

**Self-Declaration:** A type of verification statement by the tenant as to the amount and source of income, expenses, or family composition. Self-declaration is acceptable verification only when third-party verification or documentation cannot be obtained.

**Shelter Allowance:** That portion of a welfare benefit (e.g., TANF) that the welfare agency designates to be used for rent and utilities.

**Single Person:** Someone living alone or intending to live alone who does not qualify as an elderly family, a person with disabilities, a displaced person, or the remaining member of a tenant family. (Public Housing: Handbook 7465.1 REV-2, 3-5)

**Spouse:** 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.

**State Wage Information Collection Agency (SWICA):** The State agency receiving quarterly wage reports from employers in the State or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information. (24 CFR 5.214)

**Temporary Assistance to Needy Families (TANF):** The program that replaced the Assistance to Families with Dependent Children (AFDC) that provides financial assistance to needy families who meet program eligibility criteria. Benefits are limited to a specified time period.

**Tenant:** The person or family renting or occupying an assisted dwelling unit. (24 CFR 5.504(b))  
VAWA 2015: “tenant” refers to an assisted family and the members of the household on their lease, but does not include guest or unreported members of a household. Additionally, a live-in aide or caregiver is not a tenant, unless otherwise provided by program regulations, and cannot invoke VAWA protections.

**Tenant Rent:** The amount payable monthly by the family as rent to the housing authority. Where all utilities (except telephone) and other essential housing services are supplied by the housing authority or owner, tenant rent equals total tenant payment. Where some or all utilities (except telephone) and other essential housing services are supplied by the housing authority and the cost thereof is not included in the amount paid as rent, tenant rent equals total tenant payment less the utility allowance. (24 CFR 5.603(d))

**Third-Party (verification):** Written or oral confirmation of a family's income, expenses, or household composition provided by a source outside the household.

**Total Tenant Payment (TTP):**

- A. Total tenant payment for families whose initial lease is effective on or after August 1, 1982:
  - 1. Total tenant payment is the amount calculated under Section 3(a)(1) of the 1937 Act which is the higher of :
    - a. 30% of the family’s monthly adjusted income;

- b. 10% of the family's monthly income; or
- c. If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under section 3(a)(1) shall be the amount resulting from one application of the percentage.

- 2. Total tenant payment for families residing in public housing does not include charges for excess utility consumption or other miscellaneous charges.
- B. Total tenant payment for families residing in public housing whose initial lease was effective before August 1, 1982: Paragraphs (b) and (c) of 24 CFR 913.107, as it existed immediately before November 18, 1996), will continue to govern the total tenant payment of families, under a public housing program, whose initial lease was effective before August 1, 1982.

**Unauthorized Household Member(s):** Unapproved visitors to a subsidized unit over fourteen (14) consecutive days or a total of thirty-six (36) days in a 12-month period are considered to be unauthorized household members.

**Utility Allowance:** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made by a housing authority of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment. (24 CFR 5.603)

**Utility Reimbursement:** The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment for the family occupying the unit. (24 CFR 5.603)

**Very Low-Income Families:** Low-income families whose incomes do not exceed 50% of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50% of the median for the areas on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. Such ceilings shall be established in consultation with the Secretary of Agriculture for any rural area, as defined in Section 520 of the Housing Act of 1949, taking into account the subsidy characteristics and types of programs to which such ceilings apply. (1937 Act)

**Welfare Assistance:** Welfare or other payments to families or individuals, based on need, that are made under programs funded by Federal, State or local governments. (24 CFR 5.603(d))

**Welfare Rent:** In "as-paid" welfare programs, the amount of the welfare benefit designated for shelter and utilities.

## ACRONYMS

ACC	Annual Contributions Contract
CFR	Code of Federal Regulations
FSS	Family Self Sufficiency (program)
HCDA	Housing and Community Development Act
HQS	Housing Quality Standards
HUD	Department of Housing and Urban Development
INS	(U.S.) Immigration and Naturalization Service
NAHA	(Cranston-Gonzalez) National Affordable Housing Act
NOFA	Notice of Funding Availability
OMB	(U.S.) Office of Management and Budget
PHA	Public Housing Agency
QHWR	Quality Housing and Work Responsibility Act of 1998
SSA	Social Security Administration
TTP	Total Tenant Payment



**Appendix I**

**Income Limits and Deconcentration Worksheet**

<b>Development Name</b>	<b>Number of Units Under ACC</b>	<b>Number of Occupied Units</b>	<b>Number of Units Occupied by Very Poor Families</b>	<b>% Occupied by Very Poor Families</b>

**%Very Poor in**

**Census Tract**

**Target Number**

**Number Needed of below 30% of median area income**

**Number Needed above 30% of median area income**

**Waiting list number of families Appendix 2**