

# PUBLIC HOUSING MANAGEMENT

Milwaukee HUD Office of Public  
Housing  
PHA Training  
November 2017

- ▶ Program Overview
- ▶ Admissions & Eligibility
- ▶ Marketing PH
- ▶ Continued Occupancy
- ▶ Tenant Files
- ▶ Policies
- ▶ Other PH Topics
- ▶ PHAS
- ▶ Monitoring & Oversight
- ▶ The Money
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- ▶ Resources

## TOPICS

10/16/2017

## PROGRAM OVERVIEW

10/16/2017

- ▶ Public Housing is a federal housing and rental assistance program, managed by Public Housing Agencies (PHAs) overseen by HUD.
- ▶ Public Housing provides decent, safe, and affordable rental housing for eligible low-income families, the elderly, and persons with disabilities.
- ▶ Tenants residing in public housing pay 30% of adjusted gross income in rent.
- ▶ The additional operating and capital costs associated with the rental properties are paid by HUD.

## WHAT IS PUBLIC HOUSING?

10/16/2017

- ▶ Public Housing Agency (PHA)
  - ▶ A unit of State or local government, chartered in accordance with Sections 2 and 3 of the United States Housing Act of 1937, for the expressed purpose of providing housing for low income families.
- ▶ PHAs are better known as “housing authorities”
- ▶ Can also be Housing and Redevelopment Authorities (HRA), Community Development Agencies (CDA), Economic Development Authorities (EDA), etc. depending on organizational structure and establishment under State/Local law

## WHAT IS A PUBLIC HOUSING AGENCY?

10/16/2017

- ▶ United States Housing Act of 1937
  - ▶ (42 U.S.C. 1437 et seq.)
  - ▶ Beginning of Public Housing (and Section 8)
- ▶ The Brooke Amendment (1969)
  - ▶ Tied Public Housing rents to resident income
- ▶ Quality Housing Work Responsibility Act (1998)
  - ▶ Public Housing Reform
  - ▶ Reduce concentrations of poverty
  - ▶ Protect access to assistance for poorest families
  - ▶ Raise performance standards of PHAs
  - ▶ Deregulation and Streamlining

## LEGAL AUTHORITY AND SIGNIFICANT LEGISLATION

10/16/2017

- ▶ HUD's regulations are contained in Title 24 of the Code of Federal Regulations (CFR)
  - ▶ Most PH regulations are in Parts 5 & 900-990
- ▶ The citation (or "cite") is "24 CFR 900"
- ▶ The uniform definitions of "family," "income," and "tenant payment" are in Part 5
- ▶ Public housing "grant management" requirements (accounting, financial and other reporting, procurement, allowable costs, and more) are in Part 85 & Part 200

## PUBLIC HOUSING REGULATIONS

10/16/2017

- ▶ OMB Circular A87 – relocated to 2 CFR 225:
  - ▶ "Cost Principles for State, Local, and Indian Tribal Governments"
    - ▶ → What you can pay for with Federal grant funds and what you can't pay for
- ▶ OMB Circular A133
  - ▶ "Audits of States, Local Governments and Non-Profit Organizations"
    - ▶ → Federal grantees' financial reporting obligations: what and how often

## OTHER IMPORTANT REQUIREMENTS

10/16/2017

- ▶ State or local government charter
- ▶ Cooperation Agreement
  - ▶ Includes PILOT
- ▶ By-laws
- ▶ Annual Contributions Contract (ACC [HUD-53012A](#) and [HUD-53012B](#))
- ▶ Declaration of Trust (DOT [HUD-52190](#))
- ▶ General Depository Agreement (GDA [HUD-51999](#))

## GOVERNING DOCUMENTS

10/16/2017

- ▶ Every PHA must have a Board of Commissioners
- ▶ Boards vary in size and composition
  - ▶ See Chapter 469 of MN State Statute
  - ▶ City PHAs: Up to 7 members, including Resident Member (see below)
  - ▶ County PHAs: 5 members, including Resident Member (see below)
- ▶ Where allowed, Boards may also be the city council or the county board
- ▶ PH Boards must have a resident member
  - ▶ Exception for:
    - ▶ PHAs with less than 300 PH units (or HCV-only PHAs) who have attempted to get interested resident through notifications every year
- ▶ Day-to-day operations are run by an Executive Director
- ▶ Complexity and size of PHA operations staff should be determined by the size of its Public Housing and HCV programs and any other programs administered by the PHA

## ORGANIZATION OF A TYPICAL PHA

10/16/2017

- ▶ Approximately 3,300 Public Housing PHAs
- ▶ There are approximately 1.2 million public housing units

## NATIONWIDE PHA PROFILE

10/16/2017

## ADMISSIONS AND ELIGIBILITY OF PUBLIC HOUSING RESIDENTS

10/16/2017

- ▶ Must meet the definition of family
- ▶ Adjusted annual income may not exceed the income limit for the PHA's locality (LI, VLI, ELI)
- ▶ Must be a Citizen or have Eligible Immigration Status
- ▶ Must have Suitability for tenancy based on PHA policy and HUD regulation (e.g. criminal background, landlord references, etc.)
- ▶ Some PHAs have waiting list local preferences for admissions
  - ▶ Examples include:
    - ▶ Homeless
    - ▶ Veterans
    - ▶ Residency

## ELIGIBILITY REQUIREMENTS

10/16/2017

- ▶ HUD's definition includes, but is not limited to:
  - ▶ A family with or without children
  - ▶ An elderly family
  - ▶ A near-elderly family
  - ▶ A disabled family
  - ▶ The remaining member of an assisted family
  - ▶ A single person not meeting the above definitions
- ▶ HUD defines the following specifically:
  - ▶ Elderly
    - ▶ Head, Spouse, or Co-Head is at least 62 years of age
  - ▶ Disabled
    - ▶ Head, Spouse, or Co-Head is a person with disabilities (34 CFR 5.403)
    - ▶ Family displaced by a governmental action or declared national disaster
- ▶ Live-in attendants or aides are included
  - ▶ See 24 CFR 5.403
- ▶ PHA has discretion to determine other groups that define family

## DEFINITION OF FAMILY

10/16/2017

- ▶ Annual family income must not exceed the applicable income limit
- ▶ Income limits are issued annually by HUD's Office of Policy Development and Research
- ▶ Extremely Low Income = 30% of Area Median
- ▶ Very Low Income = 50% of Area Median
- ▶ Low Income = 80% of Area Median
- ▶ Income Targeting
  - ▶ PHAs must admit not less than 40% of families with Extremely Low Income (ELI) to Public Housing
  - ▶ If PHA has HCV, higher percentages of HCV income targeting can reduce percentage for Public Housing

## INCOME LIMITS

10/16/2017

- ▶ 5.506
- ▶ Individuals Eligible for Assistance:
  - ▶ Citizen
  - ▶ Noncitizen with Eligible Immigration Status
  - ▶ Eligible Immigrants 62 or older
- ▶ Individuals Not Eligible for Assistance:
  - ▶ Ineligible Immigration Statuses, including Student Visas
- ▶ Family is eligible if at least 1 member is citizen or eligible immigrant
  - ▶ Assistance will be prorated (Mixed Families)
- ▶ Evidence/Documentation
  - ▶ SAVE (Systematic Alien Verification for Entitlements)
  - ▶ Citizenship or eligible immigration status
    - ▶ Declaration of 214 Status form-examples online
  - ▶ Not contending eligibility
    - ▶ Form completed by Head of Household

## CITIZENSHIP ELIGIBILITY

10/16/2017



- ▶ Declaration of Section 214 Status
  - ▶ Must be completed for all Citizens and Eligible Immigrants
- ▶ Proof of Age
  - ▶ Only other documentation needed for Eligible Immigrants 62 years or older
- ▶ Official USCIS Document
  - ▶ Needed for those claiming Eligible Immigrant status if under 62 years of age
- ▶ SAVE (Systematic Alien Verification for Entitlements)
  - ▶ To verify the immigration status of an applicant
  - ▶ PHA Consent Form required
    - ▶ <https://www.uscis.gov/save>
- ▶ List of Non-Contending Family Members
  - ▶ For those not listed above who are not contending eligible immigration status

## CITIZENSHIP ELIGIBILITY: VERIFICATION/DOCUMENTATION & SAVE

10/16/2017

- ▶ Social Security Number (SSN) Disclosure
  - ▶ Notice PIH 2012-10 & 2016-05
- ▶ Required Consent Forms
  - ▶ Form HUD 9886
  - ▶ PHA Consent Forms
- ▶ PHA Screening Policies

## OTHER ELIGIBILITY FACTORS

10/16/2017

- ▶ 960.204
- ▶ Drug-related eviction from federally assisted housing within the last 3 years
  - ▶ Exceptions include rehabilitation
- ▶ Conviction of manufacturing or producing methamphetamine on premises of federally assisted housing
- ▶ Lifetime sex offender registration
- ▶ Currently engaged in illegal drug use
- ▶ Illegal drug use (or abuse of alcohol) or pattern of use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- ▶ Other permissive prohibitions set by the PHA

## MANDATORY DENIALS FOR CRIMINAL ACTIVITY

10/16/2017

- ▶ Size should be sufficient enough to ensure unit turnover happens quickly, but not large enough to make the wait for assistance unreasonable
- ▶ Opening the Waiting List
  - ▶ Must give public notice of opening
  - ▶ Must affirmatively further fair housing opportunity
  - ▶ Must be accessible
- ▶ Organization of Waiting List
  - ▶ Applicant name
  - ▶ Family unit size
  - ▶ Date and time of application
  - ▶ Qualification for preference, if applicable
  - ▶ Race/Ethnicity of Head of Household

## WAITING LIST

10/16/2017

- ▶ Selection from Waiting List
  - ▶ Preferences
  - ▶ Time & Date
  - ▶ Income Targeting
  - ▶ Special Admissions
    - ▶ Not required to be on waiting list (e.g. could include Displaced families)
- ▶ Updating the Waiting List
  - ▶ Applicant changes (preference status, family size, address, etc.)
  - ▶ Purging
- ▶ Closing the Waiting List
  - ▶ Public Housing requires public notice of closing

## WAITING LIST

10/16/2017

- ▶ Preferences
  - ▶ PHA Local Preferences
    - ▶ Based on local housing needs and priorities
    - ▶ Must be explained in ACOP
  - ▶ System of Preferences
  - ▶ Documentation of Preferences
  - ▶ Review of Preferences
- ▶ Examples
  - ▶ Residency Preference
  - ▶ Homeless Preference (HUD encouraged)
  - ▶ Victims of Domestic Violence
  - ▶ Persons with Disabilities
  - ▶ Elderly Families
  - ▶ Displaced Families

## WAITING LIST PREFERENCES

10/16/2017

- ▶ PHAs must develop standards for the number of persons who may live and occupy public housing units of various sizes
  - ▶ Must not discriminate against families unless designated
- ▶ Generally 2 people per bedroom, but PHA may make exceptions based on (examples):
  - ▶ Generations
  - ▶ Age
  - ▶ Sex
  - ▶ Live-In Aides
  - ▶ Reasonable Accommodations

## OCCUPANCY STANDARDS

10/16/2017

- ▶ Security Deposit
- ▶ Keys
- ▶ Move in procedures
  - ▶ Including move in inspection
  - ▶ Rent proration if necessary
- ▶ Information about the unit/development (house rules, etc.)
- ▶ Housekeeping expectations and inspection information
- ▶ Lead Disclosure forms
- ▶ Lease copies
- ▶ Discrimination information
- ▶ Reasonable Accommodations information
- ▶ Community services, etc.
- ▶ Orientation

## LEASING

10/16/2017

## MARKETING PUBLIC HOUSING

10/16/2017

▶ Group Discussion!!

## MARKETING & ADVERTISING

10/16/2017

## CONTINUED OCCUPANCY

10/16/2017

- ▶ Income eligible families that have not violated the terms of the lease may renew the lease.
- ▶ Generally, PHAs may evict over-income families, but PHAs may permit them to continue to reside in the public housing unit.
  - ▶ Discussed in more detail later
- ▶ PHAs may not evict families participating in self-sufficiency programs because the family has become over-income.
- ▶ Families that are in compliance with Community Service requirements may renew the lease.
  - ▶ Discussed in more detail later

## CONTINUING OCCUPANCY

10/16/2017

- ▶ 24 CFR 5.609
- ▶ Income Includes:
  - ▶ Gross earnings
  - ▶ Net business income
  - ▶ Interest, dividends, other income from assets
  - ▶ Social Security or other annuities
  - ▶ Welfare
  - ▶ Unemployment
  - ▶ Disability benefits
  - ▶ Armed forces pay
  - ▶ Alimony and child support

## WHAT IS INCLUDED IN INCOME?

10/16/2017

- ▶ 24 CFR 5.609(c)
- ▶ Income Does Not Include:
  - ▶ Minors' earned income
  - ▶ Foster child or foster adult support payments
  - ▶ Lump sum additions to assets
  - ▶ Medical reimbursements
  - ▶ Student financial assistance
  - ▶ Hostile fire military pay
  - ▶ Income of a live-in aide
  - ▶ Temporary income, including gifts
  - ▶ Others in the Federally Mandated Income Exclusions

## WHAT IS EXCLUDED FROM INCOME?

10/16/2017

- ▶ Gross Annual Income is adjusted before rent is calculated with deductions for:
  - ▶ \$480 for each dependent
    - ▶ Minors
    - ▶ Full-Time Students 18+
    - ▶ Disabled Adults
  - ▶ \$400 for any elderly or disabled family
  - ▶ Unreimbursed medical expenses for elderly or disabled families
  - ▶ Child Care
  - ▶ Disability Assistance, if applicable
  - ▶ A PHA may offer other deductions after HUD's review and approval

## ADJUSTMENTS TO INCOME

10/16/2017

- ▶ Gross income
- ▶ – Deductions
- ▶ = Adjusted Annual Income
  
- ▶  $\text{Adjusted Annual Income} / 12 = \text{Adjusted Monthly Income}$

## ADJUSTED ANNUAL INCOME

10/16/2017



- ▶ Total Tenant Payment is the highest of:
  - ▶ 30% of Adjusted Monthly Income
  - ▶ 10% of Gross Monthly Income
  - ▶ Welfare Rent Allowance
  - ▶ PHA's minimum rent
- ▶ PHAs must also establish a flat rent for each public housing unit.
- ▶ Generally, a family's TTP is capped by the flat rent

SO, A PUBLIC HOUSING TENANT  
PAYS...

10/16/2017

- ▶ HUD's Hierarchy of Verification
  - ▶ Enterprise Income Verification (EIV) System (mandatory)
  - ▶ Tenant Provided, Third-Party Generated Documentation
  - ▶ Third-Party Verification
  - ▶ Self-Certification
- ▶ Form 9886 (only for limited uses, but required to be on file for use of EIV)

VERIFICATION OF INCOME

10/16/2017

- ▶ Congress adopted a flat rent floor in the 2014 Appropriations Act
- ▶ Too many PHAs were setting flat rents at artificially low levels (e.g., \$50 for a 4-bedroom apartment)
- ▶ Artificially low flat rents increased HUD's subsidy burden
- ▶ Now flat rents must be equivalent to 80% of HUD's published Fair Market Rent (FMR) for the area in which the property is located
- ▶ While the 2014 Appropriations Act solved one problem (increased tenant rent contributions), it created another: in many communities, HUD's FMRs were not reflective of the market value of public housing
- ▶ In these communities PHAs believed they would experience an exodus of residents that could afford to pay for private, unassisted units, erasing any cost savings HUD anticipated

## FLAT RENTS AND THE 2014 APPROPRIATIONS ACT

10/16/2017

- ▶ The 2015 Appropriations Act provided for additional criteria that PHAs could use to set flat rents:
  - ▶ 80% of an FMR for a smaller geographic area (HUD's Small Area FMR)
- ▶ An exception flat rent based on rent reasonableness study (only if the other two options do not reflect the market value of the unit)
- ▶ HUD expects lower cost savings due to the changes from the 2015 Act

## FLAT RENTS AND THE 2015 APPROPRIATIONS ACT

10/16/2017

- ▶ No later than 90 days after issuance of new FMRs or SAFMRs by HUD, the PHA must:
  - ▶ Compare current flat rent amount to applicable FMR and SAFMR/unadjusted rent
  - ▶ Update the flat rent policies in the ACOP
  - ▶ At all new admissions, permit the family to choose between the flat rent amount and the income-based rent
  - ▶ For current residents, PHA must offer the updated flat rent at the next annual rent option, and permit the family to choose between the flat rent and the income-based rent

## FLAT RENT POLICY COMPLIANCE

10/16/2017

- ▶ At the resident family's next annual rent option, compare the updated flat rent amount applicable to the unit to the rent that was being paid by the family immediately prior to the annual rent option
  - ▶ A) If the new flat rent amount would NOT increase a family's rental payment by more than 35%, the family may choose to pay either the updated flat rent amount OR the previously calculated income-based rent
  - ▶ B) If the PHA determines that the updated flat rent amount would increase a household's rental payment by more than 35%, the family may choose to pay the phased-in flat rent amount resulting from the flat rent impact analysis OR the previously calculated income-based rent

## FLAT RENT PHASE-IN

10/16/2017

- ▶ Essential to financial health!
- ▶ Hold up deadlines for rent payments and late period
- ▶ We encourage you not to accept partial payments
  - ▶ Check your lease and with your attorney
- ▶ Follow through!
- ▶ Be consistent!

## RENT COLLECTIONS

10/16/2017

- ▶ Family composition
- ▶ Age of family members
- ▶ Annual income and sources of income of all family members
- ▶ Deductions for computing adjusted income
- ▶ Assets
- ▶ CSSR activities and/or exempt status of all family members over age 18
- ▶ Choice of Income-Based or Flat Rent
- ▶ New family member information
  - ▶ Social security numbers
  - ▶ Citizenship or eligible immigrant status

## ANNUAL REEXAMINATIONS FOR INCOME BASED RENT

10/16/2017

- ▶ Family composition
- ▶ CSSR activities and/or exempt status of all family members over age 18
- ▶ Choice of Income-Based or Flat Rent
- ▶ Income Reexaminations are only required every 3 years for Flat Rent families

## ANNUAL REEXAMINATIONS FOR FLAT RENT FAMILIES

10/16/2017

- ▶ Decrease in income of families paying income-based Rent
- ▶ Minimum Rent hardship
- ▶ Change in circumstances of families paying income-based rent
- ▶ Hardships of families paying flat rent

## INTERIM REEXAMINATIONS

10/16/2017

- ▶ Resident-Paid Utilities
- ▶ PHA-Paid Utilities
- ▶ Utility Allowances
- ▶ Excess Utility Charges

## UTILITIES

10/16/2017

- ▶ Residents are permitted to have pets!
- ▶ PHA may set **reasonable** policies on number of pets, size, weight, type of common pets
- ▶ Pet deposits, both refundable and non-refundable
- ▶ Standards of pet care and handling
- ▶ Pet Policies do not apply to Assistance or Companion Animals as Reasonable Accommodations

## PETS AND ASSISTANCE ANIMALS

10/16/2017

- ▶ Each PHA shall adopt a grievance procedure
- ▶ Administrative Grievance Procedures
  - ▶ Section 6(k) of USHA and 24 CFR Part 966
  - ▶ Grievance procedures provide opportunity for hearing
  - ▶ Procedures included in lease (or incorporated by reference)
- ▶ Informal Settlement
  - ▶ Tenant can file grievance
  - ▶ Informal discussion is held with the tenant
  - ▶ If tenant is dissatisfied with result, they may pursue a Formal Grievance Hearing
- ▶ Formal Grievance Hearing
  - ▶ PHA uses impartial hearing officer or panel
  - ▶ Determination is made and issued

## GRIEVANCE PROCEDURES

10/16/2017

## TENANT FILES/RECORDS

10/16/2017

- ▶ Names, relationship to head, birth date, social security number and citizenship or eligible immigrant status of all family members
- ▶ Disabilities
- ▶ Application
- ▶ Admission preferences (if any)
- ▶ Screening information
- ▶ Criminal records/information on drug abuse treatment must not be filed in the applicant or tenant files and only kept until purpose served
  - ▶ Destroy properly

## PERMANENT TENANT FILE REQUIREMENTS

10/16/2017

- ▶ Amounts and sources of income and assets of all family members
- ▶ Deductions from income (for rent computation)
- ▶ Rent computation
- ▶ HUD 50058

## OTHER TENANT FILE INFORMATION

10/16/2017



- ▶ Can be kept by unit or by tenant, but should be retained as unit information if/when tenant vacates
- ▶ All inspections (PHA conducted and REAC conducted)
- ▶ Lead Based Paint Information/Disclosures
- ▶ Work Orders
- ▶ Move-in/Move-out Inspections

## UNIT FILE INFORMATION

10/16/2017

## PUBLIC HOUSING POLICIES

10/16/2017

- ▶ Must be in accordance with HUD regulations and requirements
- ▶ Must be available for public review
- ▶ Must be adopted by Board of Commissioners

## ADMISSIONS AND CONTINUED OCCUPANCY POLICY (ACOP)

10/16/2017

- ▶ Must cover PHA policies on certain subjects, including but not limited to:
  - ▶ Nondiscrimination and accessibility
  - ▶ Eligibility for Admission and Processing of Applications
  - ▶ Tenant Selection and Unit Assignments
  - ▶ Leasing and Occupancy Policies
  - ▶ Transfer Policy
  - ▶ Continued Occupancy and Reexaminations
  - ▶ Terminations
  - ▶ Utilities
  - ▶ Flat Rents
  - ▶ Determining Income and Rents

## ADMISSIONS AND CONTINUED OCCUPANCY POLICY (ACOP)

10/16/2017

- ▶ A Sample ACOP can be found in the Public Housing Occupancy Guidebook Appendices
  - ▶ [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/programs/ph/rhip/phguidebook](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/rhip/phguidebook)
- ▶ This sample Admissions and Continued Occupancy Policy refers to several Procedures. PHAs modifying this sample ACOP for use will also need the following procedures:
  - ▶ Opening and Closing the Waiting List
  - ▶ Updating the Waiting List and Removing Applications
  - ▶ Taking Applications and Initial Processing
  - ▶ Verification
  - ▶ Unit Offers and Applicant Placement
  - ▶ Applicant Screening
  - ▶ Informal Hearings for Rejected Applicants

## SAMPLE ACOP

10/16/2017

- ▶ A well-written lease is an essential tool for good property management.
- ▶ Makes clear management's expectation and responsibilities.
- ▶ HUD regulations governing leases gives PHAs valuable flexibility to frame leases to local situations. So long as the HUD-required provisions are included and the prohibited provisions are excluded.
- ▶ HUD Required Provisions can be found at 24 CFR Part 966
- ▶ Must also be in compliance with State lease laws

## THE LEASE

10/16/2017

- ▶ Term **MUST** be 12-months
- ▶ Automatic renewal EXCEPT for noncompliance with community service requirement
- ▶ Tenancy can be terminated for:
  - ▶ Serious or repeated violation of terms or conditions of lease or other good cause
  - ▶ Tenants who become over-income if the PHA policy allows

## THE LEASE

10/16/2017

- ▶ Tenant Obligations
  - ▶ Must use unit solely as dwelling unit
  - ▶ May not assign, sublet, or provide housing to boarders or lodgers
  - ▶ Abide by necessary and reasonable regulations adopted by PHA
  - ▶ Comply with building and housing code requirements
  - ▶ Refrain from damaging or defacing dwelling unit
  - ▶ Act in a manner that does not disturb other residents

## THE LEASE POLICIES

10/16/2017

- ▶ PHA Obligations
  - ▶ Maintain unit and project in decent, safe, and sanitary condition
  - ▶ Comply with building and housing codes
  - ▶ Make necessary repairs to the unit
  - ▶ Maintain appliances and facilities in good working order
  - ▶ Supply water and heat to units
  - ▶ Notify tenant of specific grounds for any proposed adverse action, such as eviction

## THE LEASE POLICIES

10/16/2017

- ▶ Unit Offer(s) Policy
- ▶ Transfer Policy
- ▶ Leasing Procedures

## OTHER RESIDENT/UNIT POLICIES

10/16/2017

- ▶ VAWA
- ▶ Limited English Proficiency (LEP)
- ▶ Smoking Policy
- ▶ Community Service (CSSR)
- ▶ By-Laws
- ▶ Personnel Policy
- ▶ Procurement Policy
- ▶ Disposition Policy
- ▶ Investment Policy
- ▶ Inventory Policy
- ▶ Capitalization Policy
- ▶ Credit Card/Petty Cash Policy

## OTHER REQUIRED PHA POLICIES

10/16/2017

## OTHER IMPORTANT PUBLIC HOUSING TOPICS

10/16/2017

- ▶ Violence Against Women Act (VAWA)
- ▶ Sec. 603 of the Violence Against Woman & Department of Justice Reauthorization Act of 2005
- ▶ Amends Sec. 5 (A) of the U.S Housing Act of 1937.
  - ▶ The law requires that agencies add the goals, objectives, policies that will enable the PHA to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking."
- ▶ Per PIH Notices 2006-23, 2006-42, 2007-5 and 2008-41 and 24 CFR 960.203(c)4

VAWA

10/16/2017

- ▶ Violence Against Women Reauthorization Act of 2013
- ▶ HUD expands VAWA protections effective December 2016
- ▶ Continuation of the Core Protections
  - ▶ Codifies protections – ensures survivors are not denied assistance as an applicant, or evicted or have assistance terminated due to having been a victim
- ▶ Emergency Transfers
  - ▶ Allows survivors to move to another safe and available unit if they fear for their life or safety
  - ▶ Allows survivors to self-certify their need
  - ▶ Allows survivors to determine what is a safe unit
  - ▶ Requires housing providers to allow for an immediate move
  - ▶ If unit unavailable, housing providers must explain planned efforts
  - ▶ Requires housing providers to document requests for transfers

VAWA

10/16/2017

- ▶ Protections Against Adverse Effects
  - ▶ Domestic violence often results in negative economic or criminal consequences for the survivor
  - ▶ Housing providers must not deny occupancy based solely on these adverse factors, which are a direct result of being a survivor
- ▶ Low-barrier Certification Process
  - ▶ Allows self-certification in order to exercise VAWA rights
  - ▶ Ensures third-party documentation doesn't create a barrier

VAWA

10/16/2017

- ▶ Additional provisions in the rule:
  - ▶ Specifies "sexual assault" as a crime under VAWA in HUD-covered programs
  - ▶ Ensuring that existing and new tenants receive notification of their rights under VAWA
  - ▶ Establishes reasonable time periods for a victim to establish assistance eligibility
  - ▶ Includes Notice of Occupancy Rights and a model Emergency Transfer Request form
- ▶ Rule in Federal Register:
  - ▶ <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>

VAWA

10/16/2017



- ▶ Community Service and Self-Sufficiency Requirement
- ▶ Notice PIH 2015-12
- ▶ Except for exempt individuals, each adult public housing resident must:
  - ▶ Contribute 8 hours each month of community service; or
  - ▶ Participate in an economic self-sufficiency program for 8 hours per month; or
  - ▶ Perform 8 hours per month of combined activities of the two
- ▶ Certain individuals exempt
  - ▶ 62 years or older
  - ▶ Blind or disabled
  - ▶ Engaged in work activities
  - ▶ Able to meet requirements under an eligible State program
  - ▶ A member of a family receiving eligible Social Security or Welfare assistance and in compliance with said program

CSSR

10/16/2017

- ▶ PHAs must include in the CSSR policy that exemption/CSSR completion is verified annually
  - ▶ At least 30 days before annual re-exam and/or lease expiration, the PHA reviews exempt/non-exempt status and compliance of non-exempt family members
- ▶ Family members present signed certification on a form provided by PHA of CSSR activities performed over previous 12 months
- ▶ PHA obtains third-party verification on all residents, unless...

CSSR

10/16/2017

- ▶ PHA may choose to allow self-certifications
- ▶ Notice 2016-06
- ▶ If PHA choose to allow self-certs, then the certification form must include:
  - ▶ Statement that the resident completed the number of hours listed and this statement is subject to penalties of perjury;
  - ▶ Number of hours and type of activity
  - ▶ Name of organization/person for which activity was completed
  - ▶ Address and phone number of organization or person

## CSSR: SELF-CERTIFICATION

10/16/2017

- ▶ PHAs may NOT evict a family or terminate tenancy during the term of a 12-month lease for noncompliance with CSSR
- ▶ However, PHAs must initiate non-renewal of lease at the end of the 12-month lease term unless the family agrees to a work-out plan to complete the hours not in compliance along with the next 12 months' requirements during the next lease term
- ▶ Noncompliance again over the next 12 months will result in non-renewal of the lease

## NONCOMPLIANCE WITH CSSR

10/16/2017

- ▶ Final Rule published December 5, 2016
- ▶ Took effect February 3, 2017
- ▶ Provides 18-month implementation period and no more "grandfathering" current residents
- ▶ 24 CFR Parts 965 and 966
  - ▶ Every PHA administering public housing must implement a smoke-free policy
  - ▶ Ban the use of tobacco products in all living units, indoor common areas, and PHA administrative office areas
  - ▶ Extends to all outdoor areas up to 25 feet from housing and office areas

## SMOKE-FREE HOUSING

10/16/2017

- ▶ Potential Impact on PHAs
  - ▶ Training, admin, legal, and enforcement costs
  - ▶ PHAs that have already implemented the policy indicate costs are lower and savings are greater than expected
  - ▶ Capital and operating funds can be used for eligible activities
    - ▶ Identified in 24 CFR 905.200
- ▶ Potential Impact on Residents
  - ▶ Smokers will face new requirements
  - ▶ There is no right to smoke in a rental home
  - ▶ Those with disabilities smoke at a greater rate than those without
    - ▶ PHAs are encouraged to engage with these residents early
    - ▶ Identify social service agencies to identify alternatives to smoking

## SMOKE-FREE HOUSING

10/16/2017

- ▶ Toolkit available for PHAs
  - ▶ <https://portal.hud.gov/hudportal/documents/huddoc?id=pdfowners.pdf>
  - ▶ PHAs should also utilize MN Smoke Free Resources
    - ▶ [www.SFPublicHousingMN.org](http://www.SFPublicHousingMN.org)
- ▶ Toolkit available for residents
  - ▶ <https://portal.hud.gov/hudportal/documents/huddoc?id=pdfresidents.pdf>

## SMOKE-FREE HOUSING

10/16/2017

- ▶ Non-Assisted Tenant vs. Assisted Tenant
- ▶ Non-Assisted Tenant Over-Income
  - ▶ At time of initial occupancy, family's income EXCEEDED low-income limit
    - ▶ PHAs with less than 250 units **may admit** over-income families
    - ▶ All conditions described in 24 CFR 960.503 must be met
    - ▶ Must be leased in accordance with PHA plans
    - ▶ PHA must continue to market their housing to return to income-eligible program participants
    - ▶ Month-to-month lease
  - ▶ PHA must receive an approval letter for all "Non-Assisted Tenant Over-Income" units
  - ▶ Guidance provided in HUD PIH Notice 2011-07
- ▶ Assisted Tenant
  - ▶ Tenant met income eligibility upon move-in but subsequently became over-income
    - ▶ PHA has discretion to permit family to remain in the unit
      - ▶ 24 CFR 960.261
    - ▶ The unit then must remain in "Assisted Tenant" sub-category
    - ▶ PHA must continue to submit HUD-50058 form

## OVER-INCOME TENANTS

10/16/2017

- ▶ FOR ASSISTED TENANTS ONLY (who became over income)
- ▶ HUD Office of Inspector General (OIG)
  - ▶ HUD OIG finds >25,000 residents over-income in Public Housing
    - ▶ Published July 21, 2015 - [OIG Investigation Report](#)
- ▶ HUD OIG recommends:
  - ▶ PHAs implement policies to reduce number of over-income families in public housing
    - ▶ An estimated \$104 million would then be redirected to eligible low-income families in need of the assistance

## OIG ON OVER-INCOME TENANTS

10/16/2017

- ▶ HUD Considers New Rule on "Over-Income"
  - ▶ January 25, 2016 – [Notice](#)
  - ▶ Encouraging PHAs to evict for Over-Income
  - ▶ HUD seeks comment on following issues:
    - ▶ How to define income that "significantly" exceeds income limit
    - ▶ How should area cost of living be considered?
    - ▶ What should be minimum period of time that family is over-income before family no longer needs assistance?
    - ▶ Should market conditions or wait lists data be considered?
    - ▶ Period of time should tenant be allowed to find other housing
    - ▶ Any evidence in favor or against adoption of policy

## COMMENTS ON OVER-INCOME TENANTS

10/16/2017

- ▶ Lead Safe Housing Rule
- ▶ The Lead Safe Housing Rule is codified at 24 CFR Part 35, subparts B-R
- ▶ For pre-1978 public housing, lead paint should be tested and abated, unless the property has never undergone modernization (until then, periodic re-evaluation and interim measures of lead hazards compliant with EPA's Renovation Repair and Repainting Rule).
- ▶ PHAs must maintain copies of lead inspection, maintenance and abatement records and completed lead disclosure forms
- ▶ REAC verifies these documents at regular physical inspection
- ▶ PIH following up on the "REAC No – No" list
  - ▶ Exempt properties
  - ▶ Findings to date
- ▶ Response to children with Elevated Blood Lead Levels, notification to HUD

## LEAD BASED PAINT

10/16/2017

## PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

10/16/2017

- ▶ Effective beginning with FYE 3/31/2011
  - ▶ Public Housing Assessment System (PHAS) Indicators
    - ▶ Physical (PASS) 40 points
    - ▶ Financial (FASS) 25 points
    - ▶ Management Operations (MASS) 25 points
    - ▶ Capital Fund 10 points
- 100 points
- ▶ Project scores roll up to PHA score

## PHAS

10/16/2017

PHAS Status Designation	Composite PHAS Score	Individual Indicator Score
High Performer	Overall PHAS score of 90% or higher	At least 60% of total points available in PASS(24), MASS(15), FASS(15) and 50% of the total points for CFP(5)
Standard Performer	Overall PHAS score of at least 60%	Not less than 60% of total points available in PASS(24), MASS(15), FASS(15) and 50% of the total points for CFP(5)
Substandard Performer	Overall PHAS score of at least 60%	Less than 60% in one or more of the PASS, FASS, or MASS indicators
Troubled	Less than 60% of the overall PHAS score	---
Capital Fund Program (CFP) Troubled	---	Less than 50% on CFP indicator

## PHAS DESIGNATION STATUS

10/16/2017

- ▶ High performers receive PHAS assessments every 3 years
- ▶ Standard and substandard performers receive PHAS assessments every other year
- ▶ Overall troubled and Capital Fund-troubled PHAs will receive PHAS assessments every year
- ▶ Required to submit FDS every year regardless of whether it is scored
- ▶ Note: Large PHA's are scored every year

## SMALL PHAS (<250 UNITS) SCORING

10/16/2017

## MONITORING & OVERSIGHT

10/16/2017



- ▶ Oversight is a combination of two mechanisms: reporting and monitoring
- ▶ Reporting is a periodic consequence of receiving subsidy funds—generally a function of program execution; e.g., submission of HUD-50058
- ▶ Monitoring is HUD's direct examination of a program, function, or condition
- ▶ Monitoring can be a consequence of reporting; e.g., HUD examines a PHA's admissions files after a review of HUD-50058s
- ▶ Monitoring can also be a routine examination or inspection that isn't or can't be reported; e.g., periodic physical inspection of public housing projects by REAC
- ▶ Monitoring can also be considered any routine review of a PHA's reporting

## REPORTING AND OVERSIGHT: GENERAL PRINCIPLES

10/16/2017

- ▶ OMB's rules at 2 CFR 200 sets forth reporting requirements and programmatic standards for any recipient of a Federal grant
- ▶ 2 CFR 200 defines eligible program expenditures, eligible overhead costs, procurement practices, financial reporting requirements, frequency of reporting, and auditing standards

## RULES GOVERNING REPORTING AND OVERSIGHT

10/16/2017

- ▶ The following are examples of reports that PHAs periodically submit to HUD
  - ▶ HUD 50058 – Tenant File
  - ▶ Financial Data Schedule – Annual Financial Statement
  - ▶ Capital Funds Statements – 50075.1 and 50075.2
  - ▶ Operating Fund – 52722 and 52723
  - ▶ PHA 5-Year and Annual Plans
  - ▶ Lobbying Disclosures – SF LLL

## PUBLIC HOUSING REPORTING

10/16/2017

- ▶ One discriminator of the level of reporting, and therefore oversight, is the size of the PHA
- ▶ The statute designates PHAs with 250 or fewer units as “small”
- ▶ Generally, small PHAs either have less or less frequent reporting requirements
- ▶ HOWEVER, for the PHA Plan, a “qualified” PHA operates 550 units or less and is not categorized as “Troubled” under PHAS or SEMAP\*
- ▶ A “non-qualified” PHA operates more than 550 units, and/or is categorized as “Troubled” by the most recent PHAS or SEMAP assessment

## SIZE MATTERS

10/16/2017

- ▶ What is a PHA Plan?
  - ▶ Comprehensive guide to PHA policies, programs, operations, and strategies for meeting local housing needs and goals
    - ▶ 5-Year Plan
    - ▶ Annual Plan
- ▶ HUD PIH Notice 2015-08
  - ▶ Provides new PHA Annual and 5-Year PHA Plan templates
  - ▶ Provides new and revised certification forms
  - ▶ Provides clarification on the categories of PHAs and corresponding submission requirements
  - ▶ Incorporates new Rental Assistance Demonstration (RAD) and VAWA requirements into the plans

## PHA PLANS

10/16/2017

- ▶ The Housing and Economic Recovery Act (HERA) exempts qualified PHAs from Annual Plan submission
  - ▶ A qualified PHA is one that:
    - ▶ 1) Has 550 or less units and/or Sec. 8 vouchers combined
    - ▶ 2) Not designated "Troubled" during the prior 12 months
    - ▶ 3) Does not have a failing SEMAP score in prior 12 months

## PHA PLANS-QUALIFIED PHAS

10/16/2017

- ▶ Each PHA is required to submit and periodically update a Plan disclosing in detail its activities regarding its administration of its public housing
- ▶ All PHAs must submit a 5-Year Plan, which is updated every five years
- ▶ "Non-qualified PHAs" must also submit an Annual Plan
- ▶ Regardless of size, a PHA must amend its plan for any "significant" change to the plan; e.g., the proposed conversion of a public housing project under the Rental Assistance Demonstration
- ▶ Streamlined plans permitted for PHAs that:
  - ▶ Are high performing
  - ▶ Have less than 250 units
  - ▶ Do not own or operate public housing

## THE PHA PLAN

10/16/2017

- ▶ Assessment of local housing needs
- ▶ PHA financial resources
- ▶ Admissions policies
- ▶ Rent determinations
- ▶ Operations and management
- ▶ Grievance procedures
- ▶ Capital improvements
- ▶ Demolition and disposition
- ▶ Designation of housing for elderly and disabled families
- ▶ Public housing conversion
- ▶ Home ownership
- ▶ Economic self-sufficiency and cooperation with welfare and other agencies
- ▶ Safety and crime prevention
- ▶ Pets
- ▶ Annual certification and audits

## MINIMUM PHA PLAN REQUIREMENTS

10/16/2017

- ▶ Each PHA must report annually the financial activity of its public housing program for the previous fiscal year
- ▶ Unaudited financial statements must be submitted within 60 days of FYE
- ▶ Annual audited financial statements must be submitted within 9 months of FYE
- ▶ Each financial statement includes the Financial Data Schedule

## ANNUAL FINANCIAL REPORTING

10/16/2017

## THE COST OF PUBLIC HOUSING

10/16/2017

- ▶ Whatever the formula, funding has not always met need
- ▶ With the exception of a few years, funding has fallen consistently short over the last 15 years
- ▶ Funding shortfalls are called “prorations”
  - ▶ If the subsidy eligibility is \$100 and the appropriation is \$95, the proration is 95%

## BUDGET REALITIES

10/16/2017

- ▶ Operating Fund devoted exclusively to PHA public housing operations
- ▶ Historical underfunding of public housing operations

## OPERATING FUND

10/16/2017

- ▶ Capital Fund devoted—almost exclusively—to PHA public housing capital needs
- ▶ Some PHAs may use some Capital Funds to supplement operations
  - ▶ Any PHA may use 20% of Capital Fund for operations
  - ▶ “Small” PHAs may use 100% of Capital Fund for operations
- ▶ Estimated \$25 billion backlog in capital needs

## CAPITAL FUND

10/16/2017

## THE CHANGING FACE OF PUBLIC HOUSING

10/16/2017

- ▶ Redevelopment:
  - ▶ HOPE VI
  - ▶ Choice Neighborhoods
  - ▶ Mixed Finance
  - ▶ Faircloth Amendment
- ▶ Rental Assistance Demonstration
- ▶ Transfer, Consolidation, or Consortium
- ▶ Disposition and Demolition

SOMETIMES A PROPERTY'S USE AS  
PUBLIC HOUSING HAS RUN ITS  
COURSE

10/16/2017

- ▶ Section 519 of QHWRA rewrote Section 9 of the USHA of 1937 and introduced a limitation on the number of public housing units (§9(g)(3))
- ▶ The number was and is "the number of public housing units owned, assisted, or operated" by the PHA on 10/1/99
- ▶ PHAs can redevelop or rebuild any lost public housing units up to its Faircloth Limit

THE FAIRCLOTH AMENDMENT

10/16/2017



- ▶ Rental Assistance Demonstration (RAD) converts:
  - ▶ Operating subsidy to Section 8 subsidy
  - ▶ Public housing to privately owned HCV/PBV or multifamily assisted housing
- ▶ Operational responsibility for the housing is transferred from PIH Public Housing to either PIH HCV or to the Office of Housing

## RENTAL ASSISTANCE DEMONSTRATION

10/16/2017

## RESOURCES

10/16/2017

- ▶ PIH One-Stop Tool (POST)
  - ▶ [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/post](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/post)
- ▶ HUD Public Housing Website
  - ▶ [https://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/programs/ph](https://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph)
- ▶ Public Housing Occupancy Guidebook
  - ▶ [https://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/programs/ph/rhiip/phguidebook](https://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/rhiip/phguidebook)
- ▶ PIH Notices
  - ▶ [https://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/publications/notices](https://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/publications/notices)
- ▶ Your fellow PHAs!
- ▶ HUD Staff! ☺

## PUBLIC HOUSING RESOURCES

10/16/2017

QUESTIONS???

10/16/2017