



Public Housing Management: Policies

Milwaukee, Wisconsin
September 2024

Topics

- Program Overview
- Public Housing Statues and Regulations
- Annual Contributions Contract
- PHA Plans
- Public Housing Policies
- The Lease
- Resources

*HOTMA Sections 102 and 104 on Income and Assets will not be discussed during this training. A brief introduction to HOTMA Section 103 on Over-Income Limits for Public Housing Families will be covered.

PROGRAM OVERVIEW

What is Public Housing?

- 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.

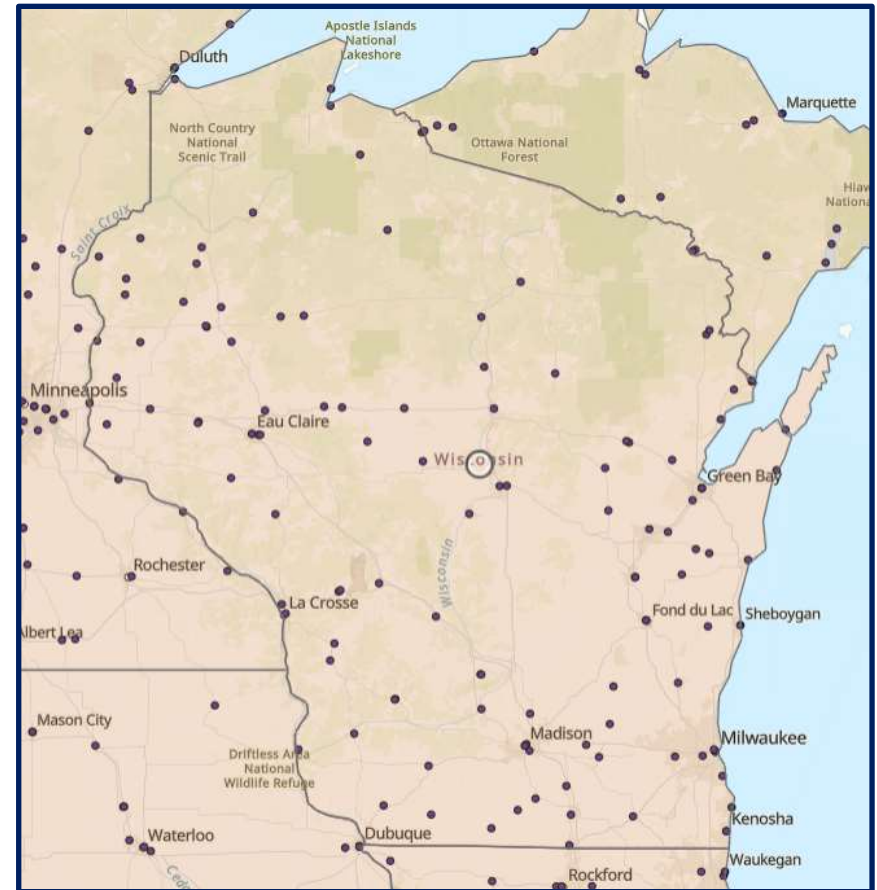
Nationwide PHA Profile

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



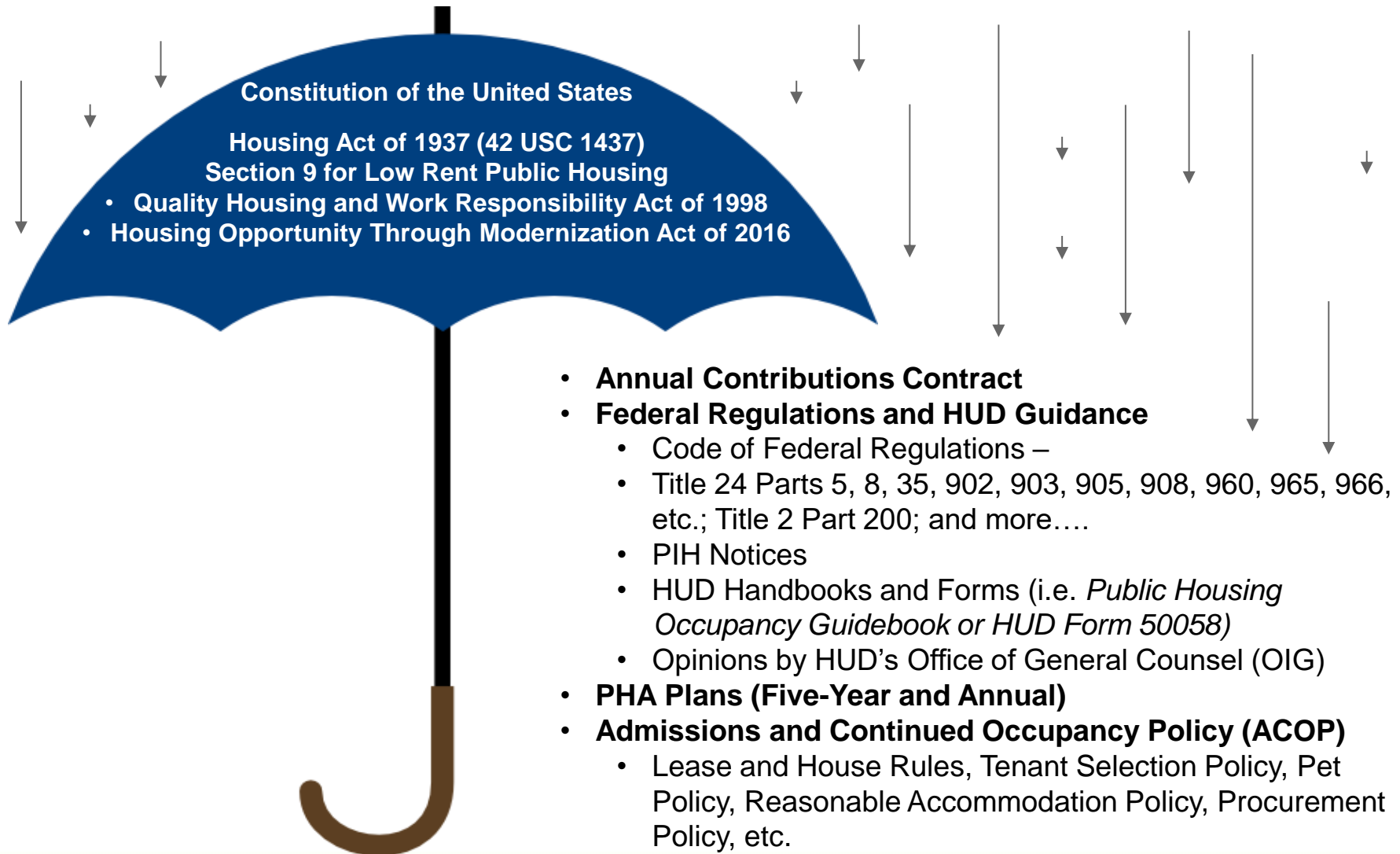
Wisconsin PHA Profile

- Approximately 84 Public Housing PHAs
- 9,952 Units
- 16,801 Residents
 - 5,488 children
 - 54% residents elderly or disabled
 - \$20,512 avg HH income
 - \$426 avg monthly rent
- 98.02% Occupancy Rate
- 2023 Public Housing Funding: \$54mm
 - \$25mm OpFund
 - \$30mm Capital Fund



PUBLIC HOUSING STATUTES AND REGULATIONS

Regulations, Guidance, and PHA Policies



Statutes and Regulations

- Housing Authority Executive Directors, Commissioners and staff should know the federal, state, and local laws, as well as the federal regulations that guide public housing. These statutes and regulations are the foundation of the consolidated Annual Contributions Contract (ACC).
 - The U.S. Housing Act of 1937 amendments
 - Housing Opportunity Through Modernization Act of 2016
 - Quality Housing and Work Responsibility Act of 1998
 - Fair Housing Act and subsequent civil rights and disability laws
 - Title 24 Code of Federal Regulations (CFR)
 - Annual appropriations law
 - State laws and local ordinances

ANNUAL CONTRIBUTIONS CONTRACT

Annual Contributions Contract

- The ACC is the mechanism through which the PHA receives funding, defines the agency's obligations, and outlines remedies for breaches of contract. Should there be a breach of contract, HUD will pursue remedial actions. Obligations under the ACC include but are not limited to:
 - Cooperation agreements
 - Operating budgets
 - Depository Agreements and General Fund
 - Pooling of funds
 - Books of account, records, and government access
 - Notices, defaults, and remedies
 - Conflict of interest

PUBLIC HOUSING AGENCY PLANS

The PHA Plan: Annual and Five Year

- What is it?
 - It is a comprehensive strategic planning process that:
 - Assesses the housing needs of the community
 - Assesses the needs of the PHA and its residents
 - Identifies the financial and other resources available to the PHA to address those needs
 - Establishes goals and strategies for address the needs identified; and
 - Translates these strategies into policies and programs
- The PHA Plan is submitted to HUD via the PH Portal and is due 75 days prior to the PHA's fiscal year end.
- The PHA Plan is not the CFP Five Year Capital Action Plan submitted to EPIC.

PHA Five Year and/or Annual Plans

- HUD PHA Plan Website:
https://www.hud.gov/program_offices/public_indian_housing/pha
- HUD PIH Notice 2015-08:
<https://www.hud.gov/sites/documents/PIH-2015-18.PDF>
 - 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 repositioning and VAWA requirements into the plans

Minimum PHA Plan Requirements

1. Statement of housing needs
2. Deconcentration Policy, waiting list, and other policies that govern eligibility, selection, and admissions including waiting list preferences.
3. Financial resources
4. Rent determination policies
5. Operation and management
6. Grievance Procedure
7. Capital Improvements
8. Demolition and Disposition
9. Designation of housing for elderly and disabled (All PHAs are General Occupancy unless HUD approved!)
10. Conversion of public housing both mandatory and voluntary
11. Homeownership programs
12. Community service and self-sufficiency
13. Safety and crime prevention measures
14. Pet Ownership in public housing
15. Civil Rights Certification
16. Annual audit results
17. Asset Management
18. Violence Against Women Act requirements
19. Other information
20. Progress in meeting the mission and goals of the 5-Year plan.
 - Definition of significant amendment and substantial deviation
 - Any other information requested by HUD

PHA Plans: Qualified PHAs

- Every FIVE years submit a Five Year PHA Plan to HUD
- 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
- **HOWEVER, Qualified PHAs must annually:**
 - Hold a public hearing regarding any changes to the goals, objectives, policies in the Five Year PHA Plan
 - Invite public comment on those changes
 - Consult with and consider recommendations of the Resident Advisory Board
 - Get Board of Commissioners Approval
 - Submit HUD Form 50075-CR to HUD

PHA Plans: Non-Qualified PHAs

- Every FIVE years submit a Five Year PHA Plan to HUD
- Annually submit an Annual PHA Plan to HUD that:
 - Makes all information relevant to the hearing and any determination of the agency regarding changes to the goals, objectives, and policies of the agency to be considered at the hearing available for inspection by the public at the principal office of the PHA during normal business hours.
 - Consult with and consider recommendations of the Resident Advisory Board.
 - Includes a notice informing the public that the information to be reviewed during the public hearing, and where and when they may inspect the information. The date, time, and location of the public hearing.
 - Includes a civil rights certification

PHA Plan: Resident Advisory Board

- Resident Advisory Boards (RAB) are *required* by HUD statute and regulation. Every PHA must have at least 1 RAB that comprises of Public Housing and Housing Choice Voucher residents.
- The role of the RAB is to:
 - Make recommendations on the PHA Plan, and any significant amendments or modifications.
- The role of the PHA is to:
 - Give RABs sufficient time to review and make recommendations on the PHA Plan Plans and any significant amendments or modifications.
 - Give RABs advance notice of meetings
 - Provide any documentation necessary to make recommendations
 - Provide meeting space and communication tools
 - Attach, consider and incorporate RAB comments into the PHA Plan
 - If comments are not incorporated the PHA must include a written narrative describing their analysis and recommendation not to include those recommendations.

PHA Plan: Significant Amendment or Modification Definition

- PIH Notice 99-51 states HUD will consider the following to be significant amendment or modifications if a PHA does not adopt its own definition:
 - changes to rent or admissions policies or organization of the waiting list;
 - additions of non-emergency work items (items not included in the current Annual Statement or 5-Year Action Plan) or change in use of replacement reserve funds under the Capital Fund;
 - additions of new activities not included in the current PHA Plan;
 - proposed demolition, disposition, homeownership, Capital Fund financing, development, or mixed-finance proposal are considered significant amendments to the CFP 5-Year Action Plan.
- PHAs can have one combined definition for both PHA Plans and CFP Five Year Action Plans.

PUBLIC HOUSING POLICIES



Admissions and Continued Occupancy Policy

- What is an ACOP?
 - PHAs communicate to the public and HUD their policies, rules, and requirements concerning their operations, programs, and services.
 - The ACOP is generally the principal document describing in detail the PHA's policies with respect to key topics such as:
 - eligibility
 - tenant selection
 - admissions preferences
 - waitlist procedures
 - rent determination
 - utilities
 - transfers
 - occupancy guidelines
 - grievance procedures
 - pet ownership
 - no smoking
 - community service and self-sufficiency requirement
 - over-income as updated by HOTMA Section 103
 - VAWA
 - Limited English Proficiency (LEP)



ACOP: Mandatory vs Discretionary Policies

Mandatory

- Must comply with HUD and other regulations
- Must be included in the ACOP
- Mandatory policies are those prescribed in statute and regulation and for which PHAs have no flexibility.
- Hints: shall, must, should, may not

Discretionary

- Are areas where PHAs have flexibility to define policies within a set of parameters
- May be unique to the PHA
- May be based on industry best practice
- Must still comply with HUD and other regulations
- Hints: may

SELECTED ACOP POLICIES

Selected ACOP Policies

- Most common monitoring review findings are in these areas:
 - Hardship Exemption: Minimum Rent
 - Repayment Agreements
 - Flat Rent
 - Community Service and Self-Sufficiency Requirements
 - HOTMA Over-Income Rule

Hardship Exemption: Minimum Rent

- PHAs must establish a minimum rent up of up to \$50.
- Hardship exemption only applies to minimum rent.
- Must be notated on the HUD Form 50058.
- Grievance hearing rights must be provided if denied.
- PHAs must grant an exemption to minimum rent when the family:
 - has lost eligibility or is awaiting a determination for an assistance program (i.e., SSI, TANF, etc.)
 - would be evicted because it is unable to pay minimum rent
 - Income has decreased because of changed circumstances, including loss of employment
 - Has a death in the family
 - Other circumstances determined by the PHA



Hardship Exemption: Minimum Rent

- When the family requests a hardship exemption, the PHA must:
 - suspend the minimum rent the month following the families request until the PHA makes a determination
 - Promptly determine whether a qualifying hardship exist and if it is temporary or long-term
 - Not evict the family for non-payment of the minimum rent during the 90-day period beginning the month following the family’s request
 - Reinstate the minimum rent from the beginning of the suspension of the minimum rent if the PHA determines the hardship is temporary

Hardship Exemption: Minimum Rent

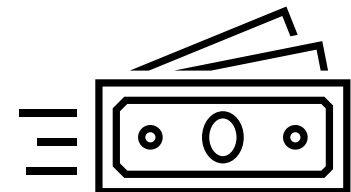
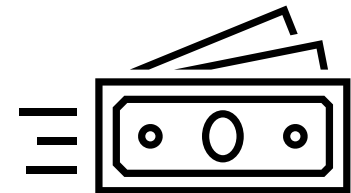
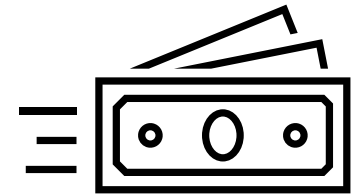
- If the PHA determines:
 - There is no qualifying financial hardship exemption, the PHA must reinstate the minimum rent, including back rent owed from the beginning of the suspension. The family must repay the back rent.
 - The qualifying financial hardship is long-term, the PHA must exempt the family from the minimum rent requirements so long as the hardship continues.

Repayment Agreements

- PIH Notice 2018-18
- Tenants are required to reimburse the PHA if they were charged less rent than required by HUD's rent formula due to the tenant's underreporting or failure to report income.
- If the tenant refuses to enter into a repayment agreement or fails to make payments on an existing or new repayment agreement, the PHA **may** terminate the family's tenancy or assistance, or both. HUD does not authorize any PHA sponsored amnesty or debt forgiveness program.*
- PHAs must determine retroactive rent as far back as the PHA has documentation.
- The monthly retro rent plus the tenant rent should be affordable and not exceed 40 percent of the family's monthly adjusted income.
- *PIH Notice 2018-18 states must terminate. However, the regulations state PHAs may. The regulations supersede the PIH Notice.

Repayment Agreements Requirements

- Must be in writing, dated, signed by tenant & PHA, include total retroactive rent owed, amount of lump sum payment at execution (if applicable), and the monthly repayment amount. It must contain these provisions:
 - Reference to lease whereby the tenant is in non-compliance and may be subject to termination of tenancy or assistance, or both.
 - Monthly retroactive rent payment amount is in addition to tenant's regular rent contribution and is payable to the PHA.
 - May be renegotiated if there is in an increase or decrease in family's income.
 - Late or missed payments constitute default and may result in termination of tenancy and/or assistance



Reexaminations for Flat Rent Families

- PIH Notice 2017-23
- Sets flat rents at 80% of FMR or 80% of SAFMRs or exception flat rent based up on a rent reasonableness study
- Annual Choice of Income-Based or Flat Rent. *Tenant's choice.* Should be documented in the file.
- Income Reexaminations are only required every 3 years for Flat Rent families, but tenants must be allowed to choose flat vs IBR annually (see above).
- Flat rents updates are if the PHA's flat rent schedule falls below 80% of FMR, SAFMR, or exception flat rent.

Flat Rent Policy Compliance



- 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 Phase-In

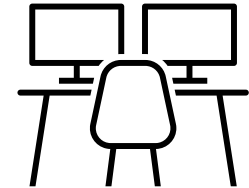
- At the resident family's next annual rent option, compare the updated flat rent amount applicable to the unit to the rent that was being paid by the family immediately prior to the annual rent option
 - A) If the new flat rent amount would NOT increase a family's rental payment by more than 35%, the 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 Hardship

- A family may switch from flat rent to income based rent because of hardship at any time.
- The PHA must make a determination within a reasonable time after the family request.
- The PHA must have a policy determining when flat rent is a financial hardship and must include the following situations:
 - The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance;
 - The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items; and
 - Such other situations determined by the PHA to be appropriate.

Community Service and Self Sufficiency Requirement

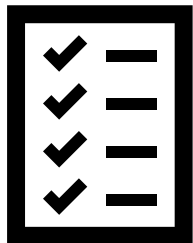
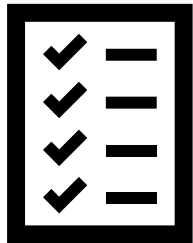
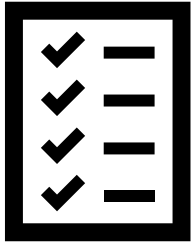
- Community Service and Self-Sufficiency Requirement
- Notice PIH 2015-12; 2016-06
- Except for exempt individuals, each adult public housing resident must log community service/self-sufficiency activities
 - 96 hours over the course of every 12-month period
- Certain individuals are considered exempt:
 - 62 years or older
 - Blind or disabled
 - Engaged in work activities (HUD encourages 30 hrs/wk min)
 - 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
 - A member of the family receiving assistance, benefits or services under Social Security or Welfare program and in compliance
 - SNAP or FoodShare in Wisconsin qualifies as a welfare program of the State



CSSR: Annual Certification

- PHAs must include in the CSSR policy that exemption/CSSR completion is verified **annually** for all family members over the age of 18.
 - 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: Self-Certification



- PHA may choose to allow self-certifications
- 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
- PHAs must sample self-certifications annually to review for compliance

Noncompliance with CSSR

- PHAs may NOT evict a family due to CSSR non-compliance
- PHAs must notify tenants of non-compliance and develop a work-out plan with the PHA to complete the CSSR requirements
- PHAs may NOT 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*
- *Non-renewal is an adverse action and requires grievance procedures be provided at the time of notification of non-compliance to the family and at the time of lease non-renewal.

HOTMA Over-Income Rule

- PIH Notice 2023-03, 24 CFR 960.507 and 24 CFR 960.509
- Effective Date: June 14, 2023
- Income Limitation: Section 103 creates an income limitation on tenancy for assisted families in public housing who become over-income for 24 consecutive months
- Definitions:
 - Over Income Limit: this limit is set by multiplying the very low-income level for the applicable area by a factor 2.4 (i.e., 120% Of AMI)
 - Over-income Family: A family whose income exceeds the OI limit
 - Non-public housing over-income (NPHOI) family: A family whose income exceeds the over-income limit for 24 consecutive months and is paying the alternative non-public housing rent

Over Income: Exception

- PHAs that own or operate less than 250 public housing units may continue to lease public housing units to non-assisted over-income families per 24 CFR 960.503. 24 CFR 960.503 applies if the following conditions are met:
 - There are no eligible low-income families on the PHA's waiting list
 - The PHA has publicized availability of the unit to low-income families in the newspaper of general circulation in the jurisdiction at least 30 days before offering a unit to an over-income family.
 - Rents the unit to the over-income family on a month-to-month basis for a rent that is not less than the PHA's cost to operate the unit.
 - The lease provides that over-income family agrees to vacate the unit when needed for rental to an eligible low-income family.
 - The lease provides at least a 30 day notice for the over-income family to vacate when the unit is needed for an eligible low-income family.
- A HUD approval letter is required to use this tenant unit status change in PIC (PIH Notice 2021-35).



Over-Income: OI Families

- During the 24 consecutive months grace period and in the period before tenancy termination or signing an NPHOI lease, the family will continue to be a PH resident and will continue to:
 - Pay their current rent choice amount – income or flat rent
 - Follow all program requirements including CSSR
 - Maintain all rights of a PH resident
- During the 24 consecutive month grace period, PHAs must give three notices, each following an income re-examination:
 - The initial determination of OI status
 - The conclusion of the first 12 months grace period
 - The conclusion of the 24-month grace period.
- All notices must be provided in writing, include the alternative rent, and state the actions that will be taken under the PHA's OI Policy in the ACOP.

Over-Income: NPHOI


- If at any time during the 24 consecutive month grace period the family falls below the OI limit, the family status as a PH resident remains unchanged.
- If the family becomes OI again, they would be entitled to a new 24 consecutive month grace period.
- Families who remain in their units under a new lease are no longer public housing residents!
 - PHAs must create a NPHOI lease. HUD Has a sample lease here:
 - <https://www.hudexchange.info/trainings/courses/hotma-income-and-assets-training-series-over-income-limits-for-public-housing-families/4942/>
- Non-public housing over income (NPHOI) may not:
 - Participate in resident councils
 - Participate in programs for low-income public housing participants
 - Receive assistance from the PHA.
 - NPHOI participants are not required to participate in CSSR.

Over-Income: Resources

- HOTMA HUD Exchange page:
 - <https://www.hudexchange.info/trainings/courses/hotma-income-and-assets-training-series-over-income-limits-for-public-housing-families/4942/>
- The HOTMA Section 103 training includes the following materials:
 - Recording
 - Slides
 - Transcript
 - HOTMA Over-Income Limits for Public Housing Families Fact Sheet
 - HOTMA Sample Non-Public Housing Over-Income Lease
 - HOTMA Sample Notices for Over-Income Families

ACOP: HOTMA

- HOTMA
 - Sections 102 and 104: Income and Assets
 - Section 103: Over-Income



HOTMA Income and Assets Training Series

This training series covers changes for PHAs because of HUD's Final Rule implementing sections 102, 103 and 104 of HOTMA.

[View the Training Series](#)

Implementation of Section 103: Over-Income Limits for Public Housing Families

This webinar provides an overview of Section 103 of HOTMA that created new limitations on tenancy and program participation for formerly income-eligible public housing families.

Implementation of Sections 102 & 104: Income and Assets Part 1

This webinar provides an overview of the implementation of Sections 102 and 104 of HOTMA and the required changes to income reviews for Section 8 and public housing residents.

Implementation of Sections 102 & 104: Income and Assets Part 2

This webinar is part 2 of reviewing the implementation of Sections 102 and 104 of HOTMA and the required changes to income reviews for Section 8 and public housing residents.

- <https://www.hudexchange.info/programs/hotma/>

ACOP Resources

- ACOP Development Guide:
<https://www.hudexchange.info/programs/public-housing/admissions-and-continued-occupancy-policy-toolkit/>
- Sample Admin and ACOP HOTMA Policies:
<https://www.hudexchange.info/programs/hotma/hotma-income-and-assets/#pha-resources>



Other Required PHA Policies

- By-Laws
- Procurement Policy
- Disposition Policy
- Investment Policy
- Inventory Policy
- Capitalization Policy

PUBLIC HOUSING LEASE



The Lease



- Public Housing does not have a Model Lease. PHAs must develop their own lease. Do not use HUD Form 90105-b!!
- 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!
 - HUD cannot opine on State of Wisconsin Landlord-Tenant Laws! PHAs must seek legal counsel.

The Lease

- The lease must include:
 - Name of head and co-heads
 - Address of unit leased
 - Term – *Must be 12 months and automatically renew for 12 months!*
 - Payments due under the lease: rent, security deposits, payment due dates, late fees, utilities as applicable and any other allowable PHA charges.
 - Statement of which utilities, services and equipment are to be supplied by the PHA without additional cost and which utilities are to be paid by the tenant
 - Composition of the household approved by the PHA. The lease must state that it is the responsibility of the tenant to promptly inform the PHA of birth, adoption, or court-awarded custody of a child. The lease also must state tenants must first obtain PHA approval to add any other family member as an occupant of the unit.
 - The lease must also state under which policies live-in aides and foster youth can be added as new household members.
 - Smoke Free Rules
 - Community Service and Self Sufficiency Requirement
 - Annual Choice of Flat Rent or Income Based Rent
 - VAWA
 - Signature Clause for tenant and the PHA

Charges Under the Lease

- Rent
 - Income Based or Flat Rent = Tenant Choice!
- Utilities
 - Indicate which utilities, services and equipment are to be supplied by the PHA without additional cost and which utilities are to be paid by the tenant
- Security Deposit
 - May not exceed one month's rent or a reasonable fixed amount
- Other Charges
 - Must be on a schedule of charges, which must be referenced in the lease or added as a lease addendum. Any changes to the schedule must have a 30-day written comment period.
 - Penalties for late payments
 - Charges for excess consumption of PHA-furnished utilities if can be determined by individual meter or result from major *tenant-supplied* (not PHA-supplied appliances)
 - Charges for maintenance beyond normal wear and tear. Can include a statement that work not covered on the schedule will be charged to the tenant based on the actual cost of labor and materials to make repairs.



Charges Under the Lease (Continued)

- Other Charges are not due until two weeks after the PHA gives written notice of the charges.
- Charges are an adverse action; therefore, written notice must include the specific grounds for the adverse action including grievance rights!

Lease - Redetermination of Rent



- When and how often re-exam will occur
- The basis for determining income based or flat rent
- When tenants are required to report changes in income and the impact on tenant rents between annual re-exams



- The tenant agrees to provide timely and accurate information about their income and family composition between re-exams



- Tenant agrees to transfer to an appropriate size unit based on family composition upon appropriate notice by the PHA

Lease – Tenant Obligations

- Tenant Obligations
 - Must use unit solely as dwelling unit
 - PHA may at its discretion allow businesses in units
 - 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
 - Use utilities in a reasonable manner
 - Pay reasonable charges (except wear and tear) under the lease
 - Act and cause household members and guests to act in a manner that does not disturb other residents
 - PHAs may establish reasonable lease provisions pertaining to guests:
 - The number of guests that may be permitted at one time
 - The maximum number of times a guest may visit during the year
 - The length of time a guest is permitted to stay in the unit
 - Procedures tenants are to use if they want a guest to stay longer than what is normally permitted under the lease.

Lease – Tenant Obligations

- Tenant Maintenance

- May provide that tenants perform seasonal or other maintenance tasks that are customary for dwelling units of a similar design and construction
- PHA *must* exempt tenants unable to perform such tasks because of age or disability and are required to identify and provide services to ensure such maintenance occurs.
- PHAs must not assign tasks to evade PHA obligations or shift PHA maintenance responsibilities.
- PHAs cannot charge for lawncare or other maintenance related work as “maintenance fees” (except for those beyond normal wear and tear as they are generally not an allowable charge.



Lease – Tenant Obligations

- Defects to Life, Health, or Safety
 - Tenant must immediately notify the PHA of the damage
 - The PHA must repair these conditions within a reasonable time (if the tenant caused the defect, the tenant may be charged for the cost of the repairs)
 - If repairs cannot be made in a reasonable time (even if the tenant caused the damage), the PHA must offer standard alternative accommodations
 - If repairs cannot be made in reasonable time nor offer alternative housing, the PHA must abate rent for the unit proportionate to the seriousness of the damage and loss in value as a dwelling. PHAs should consult Wisconsin State Tenant-Landlord law on this provision.

Lease – Pre-Occupancy/Move-Out Inspections



- PHAs must inspect the unit prior to move-in and at move-out
- PHAs may use the HCV/PBV Unit Inspection Checklist
 - https://www.hud.gov/sites/dfiles/PIH/documents/NSPIRE_Checklist.pdf



- Move in
 - PHAs must give the tenant a written statement (e.g. completed inspection form) of the condition of the unit
 - Applicant must review and sign and a copy placed in the tenant file



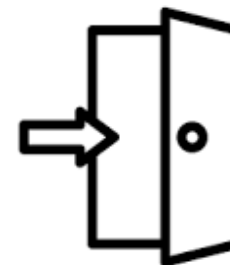
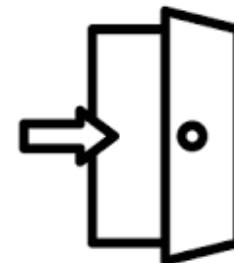
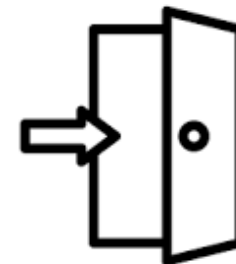
- Move-out:
 - At move-out the PHA must inspect again.
 - The tenant may participate in the inspection.
 - Difference between move-in and move-out inspection is the basis for any charges (beyond normal wear and tear) against the security deposit.
 - Tenants must be provided a statement of charges if repairs are made.

Lease – Annual Inspections

- PHAs must annually self-inspect units and property
- If a PHA receives a failing REAC score (e.g. below 60) must complete a full self-inspection

Lease – Entry of Dwelling During Tenancy

- PHAs must provide at least **two days** advance written notice!
- PHA may enter the unit at any time without advance notice if there is reasonable cause to believe an emergency exists.
- If the tenant and all adult members of the household are absent at the time of PHA entry, the PHA shall leave a written statement in the dwelling unit specifying the date, time and purpose of entry prior to leaving the unit.
- After giving notice, the PHA may:
 - Perform routine inspections and maintenance (including inspections by HUD staff or HUD contract inspectors or PHA staff)
 - Make improvements or repairs
 - Show the unit for re-leasing



Lease – Notice Requirements

- Mail sent prepaid first class or certified mail
- PHAs may, if permitted under State law, post notice on tenant unit doors or deliver written notices in person to an adult household member

Lease – PHA Obligations



- 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
- Ensure the lease, lease addendum, or tenant addendum offers protections to victims of domestic violence, dating violence, sexual assault or stalking.
- Notify tenant of specific grounds for any proposed adverse action, such as lease termination, unit transfers, change in the amount of rent, imposition of charges



Lease Terminations

- Leases may be terminated/tenants may be evicted
 - Serious or repeated violations of material terms of the lease such as:
 - Failure to make payments under the lease
 - Failure to comply with family obligations (24 CFR 966.4(f))
 - Being over the income limit for the program (HOTMA Section 103!!)
 - Other good cause, not limited to:
 - Criminal activity or alcohol abuse
 - *Lifetime* participation in a state sex offender registration program
 - Discovery after admission of facts that made the tenant ineligible
 - Discovery of material false statements or fraud by the tenant in connection with an application for assistance or reexamination
 - Failure to comply with Community Service and Self Sufficiency Requirements
 - Failure to accept the PHA's offer of a lease revision with 60 calendar days before the lease revision is expected to take place and with the offer specifying a reasonable time fore acceptance by the family

Lease Terminations - VAWA

- Lease provisions regarding grounds for termination must also address the circumstances of domestic violence, including:
 - Prohibiting construing incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking to be a serious or repeated violation of the lease or good cause for termination of the tenancy, occupancy rights of, or assistance to the victim or the threatened victim of domestic violence, dating violence, sexual assault, or stalking; and
 - Prohibiting termination or denial of tenancy, occupancy rights, or assistance to the victim because of criminal activities directly related to domestic violence, dating violence, sexual assault, or stalking engaged in by a member of the tenant's household, or any guest, or other person under the tenant's control, if the tenant or affiliated individual of the tenant is the victim or threatened victim.
- An applicant or tenant may not be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.



Lease Terminations – Criminal Activity or Alcohol Abuse

- PHAs may consider all circumstances of the case including
 - the seriousness of the offense
 - if family members knew or participated in the offense
 - the effect the eviction will have on family members not involved in the criminal activity
 - extent to which the leaseholder has shown personal responsibility and taken reasonable steps to prevent or mitigate the offending action.
- PHAs may exclude a household member as a condition of continuing to remain in the unit
- PHAs may not deny tenancy or occupancy rights based on status as a VAWA victim
- PHA may require a member who faces termination for illegal drug or alcohol abuse to demonstrate rehabilitation.
- Marijuana – whether medical or otherwise – is a controlled substance and subject to federal restrictions in public housing.

Lease Terminations – Notice

- PHAs must provide written notice lease of termination:

- 14 days in the case of failure to pay rent

- HUD published a Proposed Rule (FR-6387-P-01, 12/1/23) that may change notification to 30 days

- Reasonable time but not to exceed 30 days for:

- Health and safety of other residents, PHA employees or persons residing in the immediate vicinity
- Any member of the household engaged in any drug-related criminal or violent criminal activity
- Any member of the household has been convicted of a felony.

- 30 days in any other case such as failure to comply re-exam requirements, failure to accept mandatory transfer or failure to pay charges in addition to rent.

- PHA must notify tenants when relying on a criminal record to terminate.

- A copy of the criminal record must be provided to the tenant *at no cost. Costs cannot be passed on to the tenant.*

- Tenants must be given the right to dispute the accuracy and relevancy of the record in the grievance hearing or court trial.

- PHAs must provide notice to the post office when terminating for criminal activity that the person or family is no longer residing in the unit so as to avoid giving a terminated family a reason to return to the property.

Lease Terminations – Notice

- PHAs written notice must provide include:
 - Specific grounds for lease termination including the lease clause violated and how the tenant violated it.
 - Tenant right to respond to the lease termination
 - Tenant right to examine and copy (at his or her expense) any documents directly relevant to the termination before the grievance hearing or court trial
 - State whether the tenant has a right to request a grievance hearing
 - The PHA may not terminate the lease until the time period to request a hearing has expired or if the hearing is requested in a timely manner until the grievance process has been completed. This rule holds even if any notice to vacate under state or local law has expired.

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Lease Modifications and Tenant Comments Requirements

- When lease, schedules or other reference documents are revised, the PHA must provide them to tenants or tenant organizations at least 30 days before the PHA adopts them.
- PHAs must provide written notice describing the revision, explain the reason for it, and provides the tenant opportunity to make written comments.
- All comments submitted must be considered by the PHA before changes are made.
- Notice methods:
 - Delivering or mailing a notice to each tenant
 - Posting notices in 3 conspicuous places in each structure or buildings where affected dwelling units are located, as well as a conspicuous place in the developments office. If there is no project office, the PHA must post a notice in a similar central business location within each development.
- After the 30-day notice, lease modifications and revisions must be on a form adopted by the PHA.
- While tenants may generally be terminated for failure to accept revisions, the situation is not grounds for termination unless the PHA provides written notice of lease revision 60 calendar days before the revision is schedule to take place –and- the offer specifies a reasonable time limit for the family to accept the revision.

Public Housing Resources

- PIH One-Stop Tool (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
- Public Housing Occupancy Guidebook
 - 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
- HOTMA
 - https://www.hud.gov/program_offices/public_indian_housing/hotmare_sources
- Your fellow PHAs!
- HUD Staff! 😊

QUESTIONS???