

## Chapter 16

### PROGRAM ADMINISTRATION

#### INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of HACB-furnished utilities.

Part II: Establishing Flat Rents . This part describes the requirements and policies related to establishing and updating flat rent amounts.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families, and describes the circumstances under which the HACB will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (HACBS). This part describes the HACBS indicators, how HACBs are scored under HACBS, and how those scores affect a HACB.

Part V: Record Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the HACB will follow.

Part VI: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the HACB's reporting responsibilities related to children with environmental intervention blood lead levels that are living in public housing.

Part VII: Violence against Women Act (VAWA): Notification, Documentation, and Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, and stalking; and maintaining the confidentiality of information obtained from victims.



## **PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]**

### **16-I.A. OVERVIEW**

HACBs must establish allowances for HACB-furnished utilities for all check metered utilities and for resident-purchased utilities for all utilities purchased directly by residents from a utility supplier [24 CFR 965.502(a)].

HACBs must also establish surcharges for excess consumption of HACB-furnished utilities [24 CFR 965.506].

The HACB must maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents [24 CFR 965.502(b)].

### **16-I.B UTILITY ALLOWANCES**

The HACB must establish separate allowances for each utility and for each category of dwelling units the HACB determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of a HACB in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment [24 CFR 965.505].

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if the HACB does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide [24 CFR 965.505].

Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and sitting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage [PH Occ GB, p. 138].

Chapter 14 of the *PH Occupancy Guidebook* provides detailed guidance to the HACB about establishing utility allowances.

## **Air-Conditioning**

“If a HACB installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with 965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible.” [24 CFR 965.505(e)]

### HACB Policy

#### POLICIES

#### AIR CONDITIONER POLICY

Air conditioner use is not included in your rent. The Clinton County Housing Authority (CCHA) has adopted the following rules and regulations regarding installation and use of tenant-owned air conditioners. These rules and regulations are considered to be the Air Conditioner Policy.

1. The standard season for air conditioner use will be from May 1st through September 30th.
2. HACB will install all air conditioners. Installation for the standard season will commence during the last week of April. Air Conditioner fees must be paid in full prior to installation.
3. Installations mid-season will be at the convenience of HACB.
4. The Air Conditioner’s exterior cabinet width may not exceed 22 inches in width. Units that exceed this dimension may not be installed at the discretion of HACB Maintenance. Air Conditioners deemed too large or unsafe for operation will not be installed.
5. Only Air Conditioner units designed to be mounted in a window are permitted. Portable floor units are expressly prohibited.
6. Tenants may NOT install their own air conditioner. Air conditioners not properly installed by HACB will be immediately removed. Tenant will be responsible to pay the cost of removing improperly installed air conditioners and for any damage caused.
7. Tenant’s account must be paid current before any air conditioner payment will be accepted.
8. Payment must be according to one of the following plans:
  - a. Tenants WITH Previous Air Conditioner Installation: \$100.00 paid in full prior to installation. Tenants may make monthly payments; however, the entire balance must be paid in full prior to installation. A \$25.00 Late Installation Fee will be charged for units installed after the initial installation period.
  - b. Tenants WITHOUT Previous Air Conditioner Installation: Prorated amount paid in

full prior to installation.

9. Extraordinary circumstances will be considered on an individual basis.

#### **Utility Allowance Revisions [24 CFR 965.507]**

The HACB must review at least annually the basis on which utility allowances have been established and must revise the allowances if necessary in order to adhere to the standards for establishing utility allowances that are contained in 24 CFR 965.505.

The HACB may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account became effective.

#### HACB Policy

Between annual reviews of utility allowances, the HACB will only revise its utility allowances due to a rate change, when required to by the regulation.

### **16-I.C. SURCHARGES FOR HACB-FURNISHED UTILITIES [24 CFR 965.506]**

For dwelling units subject to allowances for HACB-furnished utilities where check meters have been installed, the HACB must establish surcharges for utility consumption in excess of the allowances. Surcharges may be computed on a straight per unit of purchase basis or for stated blocks of excess consumption, and must be based on the HACB's average utility rate. The basis for calculating the surcharges must be described in the HACB's schedule of allowances. Changes in the amount of surcharges based directly on changes in the HACB's average utility rate are not subject to the advance notice requirements discussed under 16-I.D.

For dwelling units served by HACB-furnished utilities where check meters have not been installed, the HACB must establish schedules of surcharges indicating additional dollar amounts residents will be required to pay by reason of estimated utility consumption attributable to resident-owned major appliances or to optional functions of HACB-furnished equipment. The surcharge schedule must state the resident-owned equipment (or functions of HACB-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges must be based on the cost to the HACB of the utility consumption estimated to be attributable to reasonable usage of such equipment.

#### HACB Policy

The HACB does not have HACB-furnished utilities.

### **16-I.D. NOTICE REQUIREMENTS [965.502]**

The HACB must give notice to all residents of proposed allowances and scheduled surcharges, and revisions thereof. The notice must be given in the manner provided in the lease and must:

- Be provided at least 60 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.
- Describe the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances and schedule of surcharges.
- Notify residents of the place where the HACB's documentation on which allowances and surcharges are based is available for inspection.
- Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

### **16-I.E. REASONABLE ACCOMMODATION [24 CFR 965.508]**

On request from a family that includes a disabled or elderly person, the HACB must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family [PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

## **PART II: ESTABLISHING FLAT RENTS AND PUBLIC HOUSING MAXIMUM RENTS**

### **16-II.A. OVERVIEW**

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Public housing maximum rents are needed to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status [24 CFR 5.504].

This part discusses how the HACB establishes and updates flat rents and public housing maximum rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and public housing maximum rents are discussed in Chapter 6.

### **16-II.B. FLAT RENTS [24 CFR 960.253(b) and Notice PIH 2015-13]**

#### **Establishing Flat Rents**

The 2015 Appropriations Act requires that flat rents must be set at no less than 80 percent of the applicable fair market rent (FMR). Alternatively, the HACB may set flat rents at no less than 80 percent of the applicable small area FMR(SAFMR) for metropolitan areas, or 80 percent of the applicable unadjusted rents for nonmetropolitan areas.

For areas where HUD has not determined a SAFMR or an unadjusted rent, HACBs must set flat rents at no less than 80 percent of the FMR or apply for an exception flat rent.

The 2015 Appropriations Act permits HACBs to request an exception flat rent that is lower than either 80 percent of the FMR or SAFMR/unadjusted rent if the HACB can demonstrate that these FMRs do not reflect the market value of a particular property or unit.

In order to demonstrate the need for an exception flat rent, HACBs are required to submit a market analysis methodology that demonstrates the value of the unit. The HACB must use HUD's rent reasonableness methodology to determine flat rents. In determining flat rents, HACBs must consider the following:

- Location
- Quality
- Unit size
- Unit type
- Age of property
- Amenities at the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by the HACB
- Utilities provided by the HACB



HACBs must receive written HUD approval before implementing exception flat rents. HACBs that use exception flat rents must conduct a new market analysis, and obtain HUD approval, annually.

HACBs are now required to apply a utility allowance to flat rents. Flat rents set at 80 percent of the FMR must be reduced by the amount of the unit's utility allowance, if any.

### **Review of Flat Rents**

No later than 90 days after HUD publishes new annual FMRs/SAFMRs/unadjusted rent, HACBs must revise flat rents as necessary based changes to the FMR/SAFMR/unadjusted rent. The HACB must offer changes to the flat rent to all new admissions and to existing families at the next annual rent option.

If the FMR falls from year to year, the HACB may, but is not required to, lower the flat rent to 80 percent of the current FMR/SAFMR/unadjusted rent.

#### HACB Policy

If the FMR/SAFMR/unadjusted rent is lower than the previous year, the HACB will reduce flat rents to 80 percent of the current FMR/SAFMR.

### **Posting of Flat Rents**

#### HACB Policy

The HACB will publicly post the schedule of flat rents in a conspicuous manner in the applicable HACB or project office.

### **Documentation of Flat Rents [24 CFR 960.253(b)(5)]**

The HACB must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by the HACB in accordance with this method.

## **PART III: FAMILY DEBTS TO THE HACB**

### **16-III.A. OVERVIEW**

This part describes the HACB's policies for recovery of monies owed to the HACB by families.

#### HACB Policy

When an action or inaction of a resident family results in the underpayment of rent or other amounts, the HACB holds the family liable to return any underpayments to the HACB.

The HACB will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When a family refuses to repay monies owed to the HACB, the HACB will utilize other available collection alternatives including, but not limited to, the following:

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

## **16-III.B. REPAYMENT POLICY**

### **Family Debts to the HACB**

#### HACB Policy

Any amount owed to the HACB by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, the HACB will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the HACB will terminate the family's tenancy in accordance with the policies in Chapter 13. The HACB will also pursue other modes of collection.

### **General Repayment Agreement Guidelines**

#### ***Down Payment Requirement***

#### HACB Policy

Before executing a repayment agreement with a family, the HACB will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to the HACB that a down payment of 10 percent would impose an undue hardship, the HACB may, in its sole discretion, require a lesser percentage or waive the requirement.

#### ***Payment Thresholds***

Notice PIH 2010-19 recommends that the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income, which is considered “affordable.” Moreover, Notice PIH 2010-19 acknowledges that HACBs have the discretion to establish “thresholds and policies” for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

#### HACB Policy

If a family is paying less than 40 percent of its monthly adjusted income (MAI) in rent, the minimum monthly payment amount will be the greater of the following two amounts:

The difference between 40 percent of the family's MAI and the TTP at the time the agreement is executed

\$25

If a family can provide evidence satisfactory to the HACB that a monthly payment amount of \$25 would impose an undue hardship, the HACB may, in its sole discretion, require a lower monthly payment amount.

If the family's income increases or decreases during the term of a repayment agreement, either the HACB or the family may request that the monthly payment amount be adjusted accordingly.

## ***Execution of the Agreement***

### HACB Policy

Any repayment agreement between the HACB and a family must be signed and dated by the HACB and by the head of household and spouse/cohead (if applicable).

## ***Due Dates***

### HACB Policy

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

## ***Late or Missed Payments***

### HACB Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the HACB, the HACB will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the HACB will terminate tenancy in accordance with the policies in Chapter 13.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the HACB will terminate tenancy in accordance with the policies in Chapter 13.

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

### HACB Policy

The HACB generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family, or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

## **Repayment Agreements Involving Improper Payments**

Notice PIH 2010-19 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the public housing lease that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the HACB may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to the HACB the monthly payment amount specified in the agreement but must also pay to the HACB the monthly tenant rent
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of tenancy



## PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (HACBS)

### 16-IV.A. OVERVIEW

The purpose of the Public Housing Assessment System (HACBS) is to improve the delivery of services in public housing and enhance trust in the public housing system among HACBs, public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

### 16-IV.B. HACBS INDICATORS [24 CFR 902 Subparts A, B, C, D, and E]

The table below lists each of the HACBS indicators, the points possible under each indicator, and a brief description of each indicator. A HACB's performance is based on a combination of all four indicators.

#### **Indicator 1: Physical condition of the HACB's projects**

##### **Maximum Score: 40**

- The objective of this indicator is to determine the level to which a HACB is maintaining its public housing in accordance with the standard of decent, safe, sanitary, and in good repair.
- To determine the physical condition of a HACB's projects, inspections are performed of the following five major areas of each public housing project: site, building exterior, building systems, dwelling units, and common areas. The inspections are performed by an independent inspector arranged by HUD, and include a statistically valid sample of the units in each project in the HACB's public housing portfolio.

#### **Indicator 2: Financial condition of the HACB's projects**

##### **Maximum Score: 25**

- The objective of this indicator is to measure the financial condition of the HACB's public housing projects for the purpose of evaluating whether the HACB has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary, and in good repair.
- A HACB's financial condition is determined by measuring each public housing project's performance in each of the following subindicators: quick ratio, months expendable net assets ratio, and debt service coverage ratio.

**Indicator 3: Management operations of the HACB's projects****Maximum Score: 25**

- The objective of this indicator is to measure certain key management operations and responsibilities of a HACB's projects for the purpose of assessing the HACB's management operations capabilities.
- Each project's management operations are assessed based on the following sub-indicators: occupancy, tenant accounts receivable, and accounts payable.
- An on-site management review may be conducted as a diagnostic and feedback tool for problem performance areas, and for compliance. Management reviews are not scored.

**Indicator 4: Capital Fund****Maximum Score: 10**

- The objective of this indicator is to measure how long it takes the HACB to obligate capital funds and to occupy units.
- The HACB's score for this indicator is measured at the HACB level and is based on the following subindicators: timeliness of fund obligation and occupancy rate.

#### **16-IV.C. HACBS SCORING [24 CFR 902 Subpart F]**

HUD's Real Estate Assessment Center (REAC) issues overall HACBS scores, which are based on the scores of the four HACBS indicators, and the subindicators under each indicator. The HACB's indicator scores are based on a weighted average of the HACB's public housing projects' scores. HACBS scores translate into a designation for each HACB as high performing, standard, substandard, or troubled.

A high performer is a HACB that achieves an overall HACBS score of 90 or greater, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A standard performer is a HACB that has an overall HACBS score between 60 and 89, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A substandard performer is a HACB that has an overall HACBS score of at least 60 percent and achieves a score of less than 60 percent under one or more of the physical, financial, or management indicators.

A troubled performer is a HACB that achieves an overall HACBS score of less than 60, or achieves less than 50 percent of the total points available under the capital fund indicator.

These designations can affect a HACB in several ways:

- High-performing HACBs are eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions [24 CFR 902.71].
- HACBs that are standard performers may be required to submit and operate under a corrective action plan to eliminate deficiencies in the HACB's performance [24 CFR 902.73(a)(1)].
- HACBs that are substandard performers will be required to submit and operate under a corrective action plan to eliminate deficiencies in the HACB's performance [24 CFR 902.73(a)(2)].
- HACBs with an overall rating of "troubled" are subject to additional HUD oversight, and are required to enter into a memorandum of agreement (MOA) with HUD to improve HACB performance [24 CFR 902.75].
- HACBs that fail to execute or meet MOA requirements may be referred to the Assistant Secretary to determine remedial actions, including, but not limited to, remedies available for substantial default [24 CFR 902.75(g) and 24 CFR Part 907].

HACBs must post a notice of its final HACBS score and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and designation [24 CFR 902.64(b)(2)].





## **PART V: RECORD KEEPING**

### **16-V.A. OVERVIEW**

The HACB must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the HACB must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights, and that comply with VAWA 2013 confidentiality requirements.

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

The HACB must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].

Notice PIH 2014-20 requires the HACB to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

#### HACB Policy

During the term of each public housing tenancy, and for at least four years thereafter, the HACB will keep all documents related to a family's eligibility, tenancy, and termination.

In addition, the HACB will keep the following records for at least four years:

- An application from each ineligible family and notice that the applicant is not eligible

- Lead-based paint records as required by 24 CFR 35, Subpart B

- Documentation supporting the establishment of flat rents and the public housing maximum rent

- Documentation supporting the establishment of utility allowances and surcharges

- Documentation related to HACBS

- Accounts and other records supporting HACB budget and financial statements for the program

- Complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule

- Other records as determined by the HACB or as required by HUD

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

## **16-V.C. RECORDS MANAGEMENT**

HACBs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

### HACB Policy

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

HACB staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

### **Privacy Act Requirements [24 CFR 5.212 and Form-9886]**

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the HACB may release the information collected.

### **Upfront Income Verification (UIV) Records**

HACBs that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data*.

### HACB Policy

Prior to utilizing HUD's EIV system, the HACB will adopt and implement EIV security procedures required by HUD.

## **Criminal Records**

The HACB may only disclose the criminal conviction records which the HACB receives from a law enforcement agency to officers or employees of the HACB, or to authorized representatives of the HACB who have a job-related need to have access to the information [24 CFR 5.903(e)].

The HACB must establish and implement a system of records management that ensures that any criminal record received by the HACB from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HACB action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The HACB must establish and implement a system of records management that ensures that any sex offender registration information received by the HACB from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HACB action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information, or is obtained by a HACB other than under 24 CFR 5.905.

## **Medical/Disability Records**

HACBs are not permitted to inquire about the nature or extent of a person's disability. The HACB may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the HACB receives a verification document that provides such information, the HACB should not place this information in the tenant file. The HACB should destroy the document.

## **Domestic Violence, Dating Violence, Sexual Assault, or Stalking Records**

For requirements and HACB policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, or stalking, see section 16-VII.E.



**PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH  
ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL**

**16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e)]**

The HACB has certain responsibilities relative to children with environmental intervention blood lead levels that are living in public housing.

The HACB must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional. The HACB must also report each known case of a child with an environmental intervention blood lead level to the HUD field office.

HACB Policy

The HACB will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

The HACB will provide written notice of each known case of a child with an environmental intervention blood level to the HUD field office within 5 business days of receiving the information.



## **PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY**

### **16-VII.A. OVERVIEW**

The Violence against Women Reauthorization Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving assistance under the public housing program. If your state or local laws provide greater protection for such victims, those apply in conjunction with VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and HACB policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and HACB policies are located in Chapter 3, “Eligibility” (sections 3-I.C and 3-III.F); Chapter 5, “Occupancy Standards and Unit Offers” (section 5-II.D); Chapter 8, “Leasing and Inspections” (section 8-I.B); Chapter 12, “Transfer Policy” (sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, “Lease Terminations” (sections 13-III.F and 13-IV.D).

### **16-VII.B. DEFINITIONS [24 CFR 5.2003, FR Notice 8/6/13]**

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or
  - Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members’ lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.



- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

## **16-VII.C. NOTIFICATION [24 CFR 5.2005(a)]**

### **Notification to Public**

The HACB adopts the following policy to help ensure that all actual and potential beneficiaries of its public housing program are aware of their rights under VAWA.

#### HACB Policy

The HACB will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

A summary of the rights and protections provided by VAWA to public housing applicants and residents who are or have been victims of domestic violence, dating violence, or stalking (see sample notice in Exhibit 16-1)

The definitions of *domestic violence*, *dating violence*, *sexual assault*, and *stalking* provided in VAWA (included in Exhibit 16-1)

An explanation of the documentation that the HACB may require from an individual who claims the protections provided by VAWA (included in Exhibit 16-1)

A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

A statement of the HACB's obligation to keep confidential any information that it receives from a victim unless (a) the HACB has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibit 16-1)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)

Contact information for local victim advocacy groups or service providers

## **Notification to Applicants and Tenants [24 CFR 5.2005(a)(1)]**

HACBs are required to inform public housing applicants and tenants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

The HACB must distribute a notice of VAWA rights, along with the VAWA self-certification form (HUD-50066) at each of these three junctures.

### HACB Policy

The VAWA information provided to applicants and tenants will consist of the notice of VAWA rights in Exhibit 16-1 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking.

The HACB will provide all applicants with information about VAWA at the time they request an application for housing assistance. The HACB will also include such information in all notices of denial of assistance (see section 3-III.F).

The HACB will provide all tenants with information about VAWA at the time of admission (see section 8-I.B) and at annual reexamination. The HACB will also include such information in all lease termination notices (see section 13-IV.D).

The HACB is not limited to providing VAWA information at the times specified in the above policy. If the HACB decides to provide VAWA information to a tenant following an incident of domestic violence, Notice PIH 2006-42 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the HACB make alternative delivery arrangements that will not put the victim at risk.

### HACB Policy

Whenever the HACB has reason to suspect that providing information about VAWA to a public housing tenant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim.

## **16-VII.D. DOCUMENTATION [24 CFR 5.2007]**

A HACB presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The HACB may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the HACB’s request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

- (1) A completed and signed HUD-approved certification form (HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim
- (2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person’s belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The HACB may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under “Conflicting Documentation,” nor may it require certification in addition to third-party documentation [VAWA 2005 final rule].

### HACB Policy

Any request for documentation of domestic violence, dating violence, sexual assault, or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The HACB may, in its discretion, extend the deadline for 10 business days. Any extension granted by the HACB will be in writing.

### **Conflicting Documentation [24 CFR 5.2007(e)]**

In cases where the HACB receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the HACB may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The HACB must honor any court orders issued to protect the victim or to address the distribution of property.

#### HACB Policy

If presented with conflicting certification documents (two or more forms HUD-50066) from members of the same household, the HACB will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made.

### **Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]**

The HACB has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

#### HACB Policy

If the HACB accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, sexual assault, or stalking, the HACB will document acceptance of the statement or evidence in the individual's file.

### **Failure to Provide Documentation [24 CFR 5.2007(c)]**

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

## **16-VII.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]**

All information provided to the HACB regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be retained in confidence. This means that the HACB (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

### HACB Policy

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

**EXHIBIT 16-1: SAMPLE NOTICE TO PUBLIC HOUSING APPLICANTS AND TENANTS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

*This sample notice was adapted from a notice prepared by the National Housing Law Project.*

A federal law that went into effect in 2013 protects individuals who are victims of domestic violence, dating violence, sexual assault, or stalking. The name of the law is the Violence against Women Act, or “VAWA.” This notice explains your rights under VAWA.

**Protections for Victims**

If you are eligible for public housing, the housing authority cannot refuse to admit you to the public housing program on the basis that you are a victim of domestic violence, dating violence, sexual assault, or stalking.

If you are the victim of domestic violence, dating violence, sexual assault, or stalking, the housing authority cannot evict you based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault, or stalking that are caused by a member of your household or a guest can’t be the reason for evicting you if you were the victim of the abuse.

**Reasons You Can Be Evicted**

The housing authority can still evict you if the housing authority can show there is an *actual and imminent* (immediate) threat to other tenants or housing authority staff if you are not evicted. Also, the housing authority can evict you for serious or repeated lease violations that are not related to the domestic violence, dating violence, sexual assault, or stalking against you. The housing authority cannot hold you to a more demanding set of rules than it applies to tenants who are not victims.

**Removing the Abuser from the Household**

The housing authority may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the public housing unit. If the housing authority chooses to remove the abuser, it may not take away the remaining tenants’ rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, the housing authority must follow federal, state, and local eviction procedures.

## **Proving That You Are a Victim of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

The housing authority can ask you to prove or “certify” that you are a victim of domestic violence, dating violence, sexual assault, or stalking. It must give you at least 14 business days (i.e., Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority is free to extend the deadline. There are three ways you can prove that you are a victim:

- Complete the certification form given to you by the housing authority. The form will ask for your name, the name of your abuser, the abuser’s relationship to you, the date, time, and location of the incident of violence, and a description of the violence. You are only required to provide the name of the abuser if it is safe to provide and you know their name.
- Provide a statement from a victim service provider, attorney, mental health professional, or medical professional who has helped you address incidents of domestic violence, dating violence, sexual assault, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing “under penalty of perjury.”
- Provide a police or court record, such as a protective order, or an administrative record.

Additionally, at its discretion, the housing authority can accept a statement or other evidence provided by the applicant or tenant.

If you fail to provide one of these documents within the required time, the housing authority may evict you.

### **Confidentiality**

The housing authority must keep confidential any information you provide about the violence against you, unless:

- You give written permission to the housing authority to release the information.
- The housing authority needs to use the information in an eviction proceeding, such as to evict your abuser.
- A law requires the housing authority to release the information.

If release of the information would put your safety at risk, you should inform the housing authority.

### **VAWA and Other Laws**

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

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking.

## For Additional Information

If you have any questions regarding VAWA, please contact \_\_\_\_\_ at \_\_\_\_\_.

For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).

## Definitions

For purposes of determining whether a public housing applicant or tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines ***domestic violence*** to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse or intimate partner of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- 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

VAWA defines ***dating violence*** as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines ***sexual assault*** as "any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent."

VAWA defines ***stalking*** as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.



