

Frequently Asked Questions

PIH Notice 2013-3: Public Housing and Housing Choice Voucher Programs – Temporary Compliance Assistance

1. **Question:** To what programs does this Notice apply?

Answer: This Notice applies to the following programs:

- Public Housing
- Housing Choice Voucher (both tenant-based and project-based)
- Moderate Rehabilitation

2. **Question:** Can we implement these provisions while we go through the process of updating our Administrative Plan, Tenant Selection Plan, and (if necessary) PHA Plan?

Answer: No. Section 4 of this notice requires that “Any temporary provision made available to a PHA under this Notice that a PHA elects to apply must be adopted in the PHA’s HCV program administrative plan (24CFR 982.54) or PH program tenant selection policies (24 CFR 960.202 and 960.257(c)). In cases where changes to policies are determined by the PHA to be an amendment to the PHA’s Annual Plan that is significant, as defined by the PHA, the PHA must comply with the amendment provisions of 24 CFR 903.21, including soliciting public comment and consulting with the resident advisory board.”

3. **Question:** Does a PHA need to specify to HUD which provisions it intends to use?

Answer: Yes. A PHA must specify which provisions it will use, and for which programs (Public Housing, Housing Choice Voucher, and/or Moderate Rehabilitation) it intends to use the provisions. “A PHA that chooses to adopt any provisions described in this Notice must notify HUD by email at PIHTemporaryCompliance@hud.gov. This email should also include either the Field Office Public Housing Director or the Program Center Coordinator as a recipient.”

4. **Question:** The “actual past income” and the “streamlining annual reexaminations for elderly and disabled families” provisions seem to conflict with each other, since they use different definitions of annual income when determining income for participants. Specifically, the “actual past income” provision permits a PHA to use past income while the “streamlining annual reexaminations for elderly and disabled families” provision permits PHAs to use a

streamlined process to project income for elderly and disabled families on a fixed income. May a PHA use both provisions, or are they mutually exclusive?

Answer: A PHA may not adopt both provisions. Implementing both provisions would allow PHAs to treat residents in similar circumstances differently by permitting PHAs to use actual past income for some and anticipated income for others. Therefore, PHAs must choose to implement either the provision permitting PHAs to determine annual income using past income or the provision permitting streamlined reexaminations for senior families and disabled families on fixed incomes.

5. **Question:** May a PHA utilize the provisions that apply to income determinations on a case-by-case basis or must these provisions be applied to all program participants?

Answer: PHAs that elect to use the provisions that apply to income determinations must use the provisions consistently for all program participants. Specifically, if a PHA implements the provisions related to past income and/or self-certification of assets, PHAs must apply these to all program participants. If a PHA implements the provision related to streamlined reexaminations for elderly and/or disabled families, PHAs must apply this provision to all qualifying elderly and/or disabled families.

6. **Question:** The provision related to “actual past income” allows PHAs to use actual past income to calculate subsidy levels. What must PHAs do to determine actual past income?

Answer: As required at 24 C.F.R. §5.236(b)(3), participants must supply information regarding income sources and amount at each reexamination, as requested by the PHA. For the purposes of this notice, a participant’s declaration of income level, if included on the PHA’s reexamination documentation, which is signed by all adult family members, is sufficient for meeting this requirement. Additionally, as required by 24 CFR §5.233, PHAs must use EIV to verify these income sources and amounts.

The PHA should sum the EIV income information as well as any non-wage information for the most recent 12 months of income information available in EIV and compare this sum to the information provided by the participant. If the information provided by the tenant is substantially the same (less than \$2400 annually or \$200 per month) as what is contained in EIV, this is the participant’s annual income.

If the source(s) or amount of income reported by the tenant and contained in EIV differs substantially, the PHA must revert to using projected income and conduct further

verification consistent with 24 C.F.R. §5.236(b)(3). Specifically, PHAs should request, at a minimum, two current, consecutive pay stubs. Other acceptable tenant-provided documentation (generated by a third party source) include, but are not limited to: payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

7. **Question:** Regarding the “actual past income” provision of the notice, how should PHAs treat quarters where there is no data available in EIV?

Answer: If there are not 12 consecutive months of income information available in EIV, PHAs must follow program rules at 24 C.F.R. §5.236(b)(3) regarding the verification of anticipated income. Specifically, PHAs should request at a minimum, two current, consecutive pay stubs. Other acceptable tenant-provided documentation (generated by a third party source) include, but are not limited to: payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. When written third party verification is not available, the PHA should project income based on information from a traditional written third-party verification form, completed and submitted by the employer.

8. **Question:** Are there situations in which a PHA that implements the “actual past income” provision must use anticipated income?

Answer: Yes, PHAs that adopt the “actual past income” provision must use actual past income to determine subsidy level, unless EIV data conflicts with tenant certified employment and income information, as explained in Question 5, or if the tenant requests that anticipated income be used in determining their annual income. At their discretion, participants may request that anticipated income be used instead of past income. For example, if a participant recently retired, the participant may request that anticipated income be used to calculate their rental subsidy level, since the anticipated income will result in a higher subsidy.

In cases where anticipated income must be used to determine annual income, PHAs must follow program rules at 24 C.F.R. §5.236(b)(3) regarding the verification of that income. Specifically, PHAs should request, at a minimum, two current, consecutive pay stubs. Other acceptable tenant-provided documentation (generated by a third party source) include, but are not limited to: payroll summary report, employer notice/letter of hire/termination, SSA

benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. When written third party verification is not available, the PHA should project income based on information from a traditional written third-party verification form.

9. **Question:** Does the ability to use actual past income or use streamlined procedures for verifying income for seniors and disabled families on fixed incomes affect whether a PHA should bring families in to complete the annual reexamination?

Answer: This notice does not address whether a family should be brought in to complete a reexamination. PHAs have the discretion to establish procedures regarding how reexaminations are performed and may choose to bring families in for the process or send reexamination documents through the mail.

10. **Question:** Can provisions under section 3 of the notice be used for the purpose of verifying income for program applicants as well as program participants?

Answer: The “actual past income” and “streamlining annual reexaminations for elderly and disabled families” provisions may only be used for current participants. Both of these provisions depend on having access to past income verified through EIV. Since EIV information is not available until after admission, PHAs would not be able to verify past income to use during income calculation for program applicants.

The “self-certify assets” and “payment standard up to 120%” provisions are available for both applicants and participants, since neither provision requires verified actual past income.

11. **Question:** If a PHA chooses to use the “streamlining annual reexaminations for elderly and disabled families” provision for elderly families and disabled families on fixed incomes, is the PHA still required to verify income information through EIV?

Answer: Yes. PHAs must still run the individual EIV reports to ensure no other income is detected by EIV and the family continues to be on a fixed income.

12. **Question:** Under the “actual past income” provision, is a family still required to provide documents (pay stubs, etc.) for earned income if they are not disputing the most recent 12 months of income information available in EIV?

Answer: If the employment and income information certified by the participant is substantially the same (less than \$2400 annually or \$200 per month) as the information

provided by EIV and the family does not request that anticipated income be used to calculate annual income, the family is not required to provide third party documentation (e.g., paystubs, payroll summary report, unemployment monetary benefits notice). However, if the information certified by the tenant does not substantially match EIV information or if the participant requests that anticipated income be used to calculate their subsidy standard, third party documentation is required.

13. **Question:** How do these provisions impact deductions for medical expense, child care expenses, etc.?

Answer: This notice does not impact how PHAs should calculate deductions, or the information required to verify such deductions. PHAs should continue to follow current regulatory requirements related to deductions for such expenses.