



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-5000

PRINCIPAL DEPUTY ASSISTANT SECRETARY  
FOR PUBLIC AND INDIAN HOUSING

September 3, 2015

Dear Executive Director:

The Public Housing program is an essential resource for some of the nation's most vulnerable families. HUD strongly supports the efforts of public housing agencies (PHAs) to further the goals of providing quality affordable housing to eligible families in a manner that moves families toward increased and sustained self-sufficiency. At the same time, scarce public resources must be provided to those most in need of deeply affordable housing.

HUD affirmed this on August 1, 2003, when it published 24 CFR 960.261 (FR-4824-F-02) giving PHAs more discretion to establish local occupancy policies that limit lease renewals for families who, though income eligible at the time of admission, became over-income while on the program. Such policies would thereby make units available for applicants who are currently income eligible. HUD will reiterate this policy in an upcoming notice related to flat rent requirements, by stating that the purpose of flat rents is to ensure that families with higher incomes pay an appropriate market-based rent.

In July 2015, the Office of the Inspector General (OIG) published its findings of audit 2015-PH-0002, *Over-income Families in Public Housing*. That audit identified several cases where families had incomes that were "excessively" above the income threshold. The OIG also found that, of the PHAs sampled, none were using their discretion to evict or otherwise terminate the tenancy of over-income families.

PHAs are reminded that, except for regulatory limitations on evicting families receiving the Earned Income Disregard and families participating in the Family Self-Sufficiency program<sup>1</sup>, PHAs have the discretion to terminate the tenancy of over-income households. PHAs should ensure they are balancing the important goals of supporting the sustained self-sufficiency of families with the ever increasing demand for affordable housing units among families on their waiting lists.

HUD strongly encourages PHAs to utilize the discretion available to them to remove extremely-over-income families from public housing. As a first step to aid PHAs in limiting the most egregious over-income cases from continuing to reside in public housing, HUD encourages PHAs to adopt local policies while considering many factors, including, but not limited to:

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<sup>1</sup> 24 CFR 960.261

- *Definition of over-income* – In most localities, the HUD-defined program income limits reflect the actual local area median income (AMI); however, in certain markets with substantially higher incomes, HUD applies the national AMI for program income limits. In these markets, PHAs may choose to apply the actual local AMI to any policies that limit continued occupancy by over-income families to reflect the higher cost of living.
- *Income Stability* – Family income may fluctuate considerably, so PHAs might consider the length of time a family’s income must meet or exceed a certain over-income threshold in order to be considered self-sufficient.
- *Length of time for safety net* – When determining factors that impact how long a family may remain in public housing after becoming over-income, PHAs might consider many factors such as cost and availability of suitable housing, or other family factors such as elderly or disability status.
- *Preference for Return* – PHAs may create a preference for public housing or other assisted housing programs for families removed from public housing because they are over-income, but whose income drops shortly after they leave the program.
- *Hardship Policy* – PHAs could choose to adopt a hardship policy that would allow families to petition to stay in the event of a change in household composition or a drop in income due to factors outside of the tenant’s control (i.e., factory closing, disability, or illness/death).

HUD is reviewing data and related information to understand the impact of potential national policy changes, while continuing to provide a balance between achieving the core program goal of serving low income families and encouraging families to become self-sufficient.

Again, HUD strongly encourages PHAs to consider utilizing the discretion afforded to them to ensure that public housing is available for the nation’s most vulnerable families. We look forward to working with you to achieve this goal.

Sincerely,



Lourdes Castro Ramírez  
Principal Deputy Assistant Secretary