

Chapter 4 Part 2.a. References in this Chapter

1 – PIH Notice 2018-24

<https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2018-24%20EIV%20SSN%20Notice.pdf>

Special Attention of: Public Housing and Section 8 Program Administrators, Public Housing Hub Office Directors; Public Housing Field Office Directors; Program Center Coordinators; Resident Management Corporations; Resident Councils; Participants of Public Housing, Housing Choice Voucher, Project-Based Certificate, and Project-Based Voucher Programs; Section 8 Property Owners and Landlords Notice: PIH 2018-24 Issued: November 27, 2018 Expires: Effective until amended, superseded, or rescinded Cross References: 24 CFR §5.216, 24 CFR §5.218, and 24 CFR §5.233 SUBJECT: Verification of Social Security Numbers (SSNs), Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System’s Identity Verification Report 1. Purpose. This notice is the administrative guidance that explains the procedures public housing agencies (PHAs) are required to use for verifying social security numbers, social security benefits of applicants, and participants and household members at the time of application for rental housing assistance programs and during mandatory reexamination of household income. This notice also includes the procedures for effective use of the EIV system to reduce subsidy payment and administrative errors. This notice supersedes Notice PIH 2012-10. The notice includes the following updates: a. Updated website links and references. b. Removal of the provision in Paragraph # 22 requiring a PHA to notify HUD Headquarters when the PHA determines the tenant name or surname reported on the HUD 50058 is correct. In these instances, PHAs may notify the Social Security Administration (SSA). c. Revisions to the “Authorized Workarounds” in Paragraph # 22 for overdue examinations not completed due to pending litigation. Any information PHAs send to the field office must now be sent only by encrypted emails. d. Clarification of the penalties for noncompliance with EIV’s Identity Verification Report in Paragraph # 24 and elimination of the right to appeal the imposition of penalties. 2 e. Elimination of the attachments. 2. Applicability. This notice applies to the following HUD-PIH rental assistance programs: Public Housing, Section 8 Moderate Rehabilitation, Project-Based Certificate, Project-Based Voucher, and Housing Choice Voucher Programs. This notice also applies to all PHAs, including Moving-to-Work (MTW) PHAs who administer these programs. 3. Background. The Housing and Community Development Act of 1987 (Public Law 100242; 101 Stat. 1864; 42 USC §3543) grants the Secretary the authority to require applicants and participants (including their household members) to disclose his/her social security number (SSN) as a condition of initial or continuing eligibility for participation in any HUD rental assistance program. HUD uses the SSN (along with the name and date of birth) of an individual to validate that person’s identity, obtain employment and income information via computer matching programs, and ensure duplicate assistance is not being paid. These uses allow HUD, program administrators, and auditors to determine compliance with program requirements, as well as determine the eligibility and level of assistance a family is eligible to receive and reduce improper payments, and to prevent fraud waste and abuse in HUD rental assistance programs. Under HUD regulations at 24 CFR §§ 5.216 and §5.233, PHAs are required to use the EIV system to reduce administrative and subsidy payment errors. In accordance with this, PHAs: a. Use EIV’s Identity Verification report for effective decision making, corrective action implementation, and reporting activities; b. Implement policies and procedures to minimize

erroneous subsidy payments on behalf of families who have not complied with the required SSN disclosure and documentation requirements; c. Use EIV to validate and/or verify tenant-reported social security benefits; and d. Provide accurate and reliable information to HUD in the Inventory Management System Public and Indian Housing Information Center (IMS/PIC). PHAs verify social security benefits of applicants, participants, and household members by contacting the local office of the SSA by phone, fax, or in writing; reviewing an original social security benefit check; or accepting tenant-provided benefit verification letters. SSA electronically provides HUD with available benefit information on all current participants and household members who have disclosed a valid SSN, name and date of birth which matches SSA records. HUD makes this information available to administrators of Public Housing and Section 8 programs through the EIV system. Electronic benefit verification is the most efficient verification method available and allows PHAs to process family annual and interim reexaminations expeditiously. SSA continues to receive requests for income verification from PHAs despite the electronic exchange of SS and SSI benefit 3 information between SSA and HUD. However, PHAs are not to refer applicants for or participants of HUD rental assistance programs to local SSA offices to obtain verification of the amount of their SS/SSI benefits. PHAs are required to use the EIV system as a thirdparty source to verify tenant income information during all mandatory annual and interim reexaminations of family income and composition, in accordance with 24 CFR §5.236 and HUD administrative guidance.

4. Effective Date. This notice is effective upon issuance and remains effective until amended, superseded, or rescinded.

5. SSN Disclosure. In accordance with 24 CFR §5.216, applicants and participants (including each member of the household and including, live-in aides, foster children, and foster adults) are required to disclose his/her SSA-assigned SSN, with the exception of the following individuals:

- a. Those individuals who do not contend to have eligible immigration status (individuals who may be unlawfully present in the United States) and have not been assigned an SSN. These individuals in most instances would not be eligible for a SSN.
 - i. A family that consists of a single household member (including a pregnant individual) who does not have eligible U.S. citizenship or eligible immigration status is not eligible for housing assistance and cannot be housed.
 - ii. A family that consists of two or more household members and at least one household member that has eligible U.S. citizenship or eligible immigration status, is classified as a mixed family, and is eligible for prorated assistance in accordance with 24 CFR §5.520. The PHA may not deny assistance to mixed families due to nondisclosure of an SSN by an individual who does not contend to have eligible immigration status. Note: Financial assistance may only be provided to individuals with eligible immigration status in accordance with 42 USC §1436a, which is generally evidenced by the individual providing his/her Green Card (Form I-551 – U.S. Permanent Residence Card) or other documentation approved by the Department of Homeland Security for noncitizens with refugee or asylee status.
- b. Existing program participants, who as of January 31, 2010, were 62 years of age or older (born on or before January 31, 1948). This exemption continues even if the individual moves to a new public housing assisted unit.

Disclosure of SSNs is considered information subject to the Federal Privacy Act (5 USC §552a, as amended). In accordance with 24 CFR §5.212, the collection, maintenance, use, and dissemination of SSNs, any information derived from SSNs and income information must be conducted, to the extent applicable, in compliance with that Act and all other provisions of Federal, State, and local laws. An individual who previously declared to have eligible immigration or eligible citizenship status may not change his/her declaration to no longer contend to have eligible immigration 4 status to avoid compliance with the SSN disclosure and documentation requirements or penalties associated

with noncompliance of these requirements. Note: There are no provisions under HUD regulations which prohibit a mixed family from executing a lease or other legally binding contract. A mixed family includes individuals that have both eligible and ineligible aliens so long as at least one household member is eligible. However, some State laws prohibit single ineligible individuals from executing a contract (i.e., lease or other legally binding documents). If this is the case in your State, the family must not be admitted into the program.

6. SSN Documentation. The PHA must request the applicant and participant (including each member of the household), who are not exempt under Paragraph 5 of this notice, to provide documentation of each disclosed SSN. Acceptable evidence of the SSN consists of: a. An original SSN card issued by SSA; b. An original SSA-issued document, which contains the name and SSN of the individual; or c. An original document issued by a Federal, State, or local government agency, which contains the name and SSN of the individual. It should be noted that most (if not all) individuals who are lawfully present in the U.S. have been assigned an SSN. Many existing laws require the disclosure of the SSN for various purposes. All applicants and participants, including each member of the household (with the exception of those individuals noted in Paragraph 5 of this notice) are required to disclose his/her SSA-assigned SSN. The SSA issues three types of social security cards depending on an individual's citizen or noncitizen status and whether or not a noncitizen is authorized by the Department of Homeland Security (DHS) to work in the United States. They include: a. The first type of card shows the individual's name and SSN only. This is the card most people have and reflects the fact that the holder can work in the U.S. without restriction. SSA issues this card to: i. U.S. citizens; or ii. Noncitizens lawfully admitted to the United States for permanent residence and noncitizens with DHS permission to work permanently in the United States (i.e., refugees and asylees). b. The second type of card bears, in addition to the individual's name and SSN, the legend: "NOT VALID FOR EMPLOYMENT." SSA issues this card to lawful noncitizens who do not have DHS permission to work and are required by law to provide an SSN to obtain general assistance benefits that they already have qualified for. c. The third type of card bears, in addition to the individual's name and SSN, the legend "VALID FOR WORK ONLY WITH DHS AUTHORIZATION." SSA issues this card to people with DHS permission to work temporarily in the United States. SSA verifies all noncitizens' documents with DHS before an SSN card is issued to a noncitizen.

7. Rejection of Documentation. The PHA may reject documentation of the SSN provided by the applicant or participant for only the following reasons: a. The document is not an original document; or b. The original document has been altered, mutilated, or is not legible; or c. The document appears to be a forged document (i.e., does not appear to be authentic). The PHA should explain to the applicant or participant, the reason(s) the document is not acceptable and request the individual to obtain acceptable documentation of the SSN and submit it to the PHA within a specified time frame.

8. Verification of the SSN. The PHA shall verify each disclosed SSN by: a. Obtaining the documentation listed under Paragraph 6 of this notice from applicants and participants (including each member of the household); b. Making a copy of the original documentation submitted, returning it to the individual, and retaining the copy in the file folder; and c. Recording the SSN on line 3n of the form HUD-50058 and transmitting the form HUD-50058 to HUD within a timely manner. PHAs are required to transmit the form HUD-50058 no later than 30 calendar days of receiving the SSN documentation, to enable HUD to initiate its computer matching efforts for current program participants. Note: HUD does not initiate computer matching efforts for applicants. HUD, via its computer matching program with the SSA, will validate the SSN (along with the individual's name and date of birth) against the SSA's database. EIV will report

the status of the identity verification process as Verified, Failed, Pending, Excluded, or Deceased on the household Summary Report. Below is a summary of the action the PHA is required to take for each identity verification status.

a. Verified. If the information matches the SSA database, the individual's identity verification status will be Verified (See Exhibit 1 below). No action is required by the PHA.

b. Failed. If the information does not match the SSA database, the identity verification status will be Failed (see Exhibit 2 below). See Paragraph 22 of this notice for guidance on how to correct personal identifiers of individuals whose identity verification status is failed.

c. Pending. If an individual's identity verification status is Pending (see Exhibit 3 below), this means that HUD has not yet sent the tenant's personal identifiers to SSA for validation. No action is required by the PHA.

d. Excluded. Effective April 30, 2012, if an individual's identity verification status is Excluded (see Exhibit 4 below), this means that HUD will not send the tenant personal identifiers to SSA for validation because a valid SSN is not reported on line 3n of the form HUD-50058 or the individual has failed EIV pre-screening as described in Paragraph 22 of this notice.

e. Deceased. If an individual's identity verification status is Deceased (see Exhibit 5 below), this means SSA's records indicate the person is deceased. The PHA is required to confirm the death with the family's head of household or listed emergency contact person. If the individual is deceased and the only household member or the only surviving household members are a live-in aide and the live-in aide's family (single member household), the PHA must complete an end of participation (EOP) action on form HUD-50058 and discontinue assistance and/or tenancy. If the individual is not deceased, refer to the instructions in PIH Notice 2012-04, dated January 1, 2012 (or any successor notice). If there are authorized household members remaining in the program, update the family composition accordingly, complete an interim reexamination action on form HUD-50058, and take any other action in accordance with HUD administrative guidance (see PIH Notice 2012-04) and PHA-established policies. See the HUD-SSA Computer Matching Schedule in Paragraph 17 of this notice to determine when your State's data will be matched. The PHA is required to retain the EIV Summary Report or Income Report in each family file as confirmation of compliance with the SSN disclosure, documentation and verification requirements. Electronic retention of these reports is permissible. Once the individual's identity verification status is classified as Verified, the PHA may, at its discretion, remove and destroy the copy of the documents referenced in Paragraphs 6 and 8 of this notice. Paper documentation must be destroyed by either shredding or burning. Electronic documentation must be destroyed by erasing or permanently deleting the file. Additional guidance related to destruction of records is available in HUD Handbook 2400.25, Rev 4.1: HUD Information Technology Security Policy, dated March 2016. The handbook is available online at: <http://www.hud.gov/sites/dfiles/OCHCO/documents/240025CIOH.pdf>. Retention of the EIV report which shows an identity verification status of Verified in the tenant file is adequate documentation of a valid tenant SSN. This will minimize the risk of exposing the individual's SSN. 7 PHAs are encouraged to minimize the number of tenant records that contain documents which display the full nine-digit SSN. PHAs are permitted to maintain EIV income reports in the tenant file for the duration of tenancy, and no longer than three years from the end of participation date.

Exhibit 1: Example of an individual with an EIV identity verification status of **Verified**.

Household Members						
Member SSN	Member First Name	Member Last Name	Date of Birth	Age	Relationship	Identity Verification Status
***-**-0397	FLOYD		XX/XX/1942	69	Head	Verified

Exhibit 2: Example of an individual with an EIV identity verification status of **Failed**.

Household Members						
Member SSN	Member First Name	Member Last Name	Date of Birth	Age	Relationship	Identity Verification Status
***-**-0681	Lori		XX/XX/1954	58	Head	Failed

Exhibit 3: Example of an individual with an EIV identity verification status of **Pending**.

Household Members						
Member SSN	Member First Name	Member Last Name	Date of Birth	Age	Relationship	Identity Verification Status
***-**-3273	JOHN		XX/XX/1969	42	Head	Pending

Exhibit 4: Example of an individual with an EIV identity verification status of **Excluded**.

Household Members						
Member SSN	Member First Name	Member Last Name	Date of Birth	Age	Relationship	Identity Verification Status
***-**-3027	zrzn	AVWMZMVS	XX/XX/1945	67	Head	Verified
***-**-0726	zrdo	AVWMZMVS	XX/XX/1970	41	Other Adult	Excluded
***-**-0954	zilwzhr	AVWMZMVS	XX/XX/1995	16	Other youth under 18	Verified
***-**-0205	luolwz	AVWMZMVS	XX/XX/2002	10	Other youth under 18	Verified

Exhibit 5: Example of an individual with an EIV identity verification status of **Deceased**.

Household Members						
Member SSN	Member First Name	Member Last Name	Date of Birth	Age	Relationship	Identity Verification Status
***-**-3872	Dorothy		XX/XX/1934	78	Head	Deceased
***-**-7962	Sammuel		XX/XX/1983	28	Live-in aide	Verified

9. Invalid SSNs. An invalid SSN is an SSN that SSA has never assigned. SSA has never assigned an SSN with the first three digits of: 000, 666, or 900 series (numbers within the 900-999 range). Additionally, prior to June 25, 2011, SSA never assigned an SSN with the 8 first three digits of: 000, 666, 772, 800, or 900 series. SSA has never assigned an SSN with the second two digits of 00 or the last four digits of 0000. For additional information on ways to determine if an SSN is valid, visit SSA's website: <http://www.socialsecurity.gov/employer/ssnvhighgroup.htm>. If you suspect someone of committing fraud, waste, or abuse against SSA, report it to SSA's Office of Inspector General (OIG) by mail, fax, or phone. U.S. Mail: Social Security OIG Hotline P.O. Box 17785 Baltimore, Maryland 21235 FAX: 410-597-0118 Telephone: 1-800-269-0271 from 10:00 a.m. to 4:00 p.m. Eastern Standard Time TTY: 1-866-501-2101 for individuals that are speech and/or hearing impaired 10. Individuals without an assigned SSN. It is not uncommon for certain individuals to not have an SSA-assigned SSN. Below is a listing of such individuals, which is not all-inclusive: a. U.S. newborn children (eligible citizens - these individuals will be

issued an SSN upon SSA confirmation of birth). b. Noncitizens lawfully present in the U.S. (ineligible noncitizens - these individuals will be issued an SSN upon SSA confirmation of the individual's DHS documentation or confirmation that the individual is required by law to provide an SSN to receive general assistance benefits that they already have qualified for). c. Noncitizens unlawfully present in the U.S. (ineligible noncitizens - typically, these individuals cannot be assigned an SSN). PHAs are required to use the Public and Indian Housing Information Center (PIC) Tenant ID Management tool to generate a unique identifier (commonly referred to as an alternate ID (ALT ID)) for those individuals who have not been assigned an SSN. A job aid for use of the PIC Tenant ID Management tool is available online at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/systems/pic/ts. Contact the PIC Coach in your local HUD office if you need assistance with PIC. Once an individual discloses an SSN, the PHA must use the Tenant ID Management tool to replace the ALT ID with the disclosed SSN within 30 calendar days of receipt of the SSN. Note: SSA requires that an individual who has never been issued a SSN card or has lost their SSN card, complete Form SS-5 – Application for a Social Security Card to request an original or replacement SSN card or change information on his/her SSA record. The form is available online at www.socialsecurity.gov, or can be obtained at the local SSA office. 9 11. Individual Taxpayer Identification Number (ITIN). An ITIN is a taxpayer identification number for Federal tax purposes only for certain non-residents and resident noncitizens, their spouses and dependents, who cannot obtain an SSN. The ITIN begins with the number “9” and is formatted like a SSN (9XX-XX-XXXX). However, the ITIN is not an SSN and PHAs must not report the ITIN on line 3n of the form HUD-50058. PHAs are required to use the Tenant ID Management tool to replace any reported ITIN on line 3n of the form HUD-50058 with an SSN or an ALT ID. ITINs do not entitle a noncitizen to social security benefits, create any inference regarding a noncitizen's immigration status, or give a noncitizen a right to work in the U.S. 12. Addition of a New Household Member. When a participant requests to add a new household member, who is at least 6 years of age or is under the age of six and has an SSA-assigned SSN, to the family, the participant must disclose the SSA-assigned SSN and provide the PHA with the documents referenced in Paragraph 6 of this notice at the time of such request, or at the time of processing the interim or annual reexamination of family income and/or composition. If the family is unable to provide the required documentation of the SSN, the PHA shall not add the new household member to the family composition until the family provides such documentation. The PHA is not authorized to generate an ALT ID for the affected household member. When a participant requests to add a new household member, who is under the age of six and does not have an SSA-assigned SSN, the participant must disclose the SSA-assigned SSN and provide the PHA with the documents referenced in Paragraph 6 of this notice within 90 calendar days of the child being added to the household. If the family is unable to disclose and provide evidence of the SSN within 90 calendar days, the PHA is required to grant the family an additional 90-day period to comply with the SSN disclosure and documentation requirement, only if the PHA determines the family was unable to comply with the requirements due to circumstances that could not have reasonably been foreseen and were outside the control of the family. Examples include but are not limited to: delayed processing of SSN application by SSA, natural disaster, fire, death in family, etc. The child is to be included as part of the assisted household and is entitled to all the benefits of being a household member during the allotted time for the family to comply with the SSN disclosure and documentation requirements. The PHA is required to generate an ALT ID as referenced in Paragraph 10 of this notice. Upon expiration of the provided time period, if the

family has not complied with the SSN disclosure and documentation requirements, the PHA must terminate the entire family's tenancy or assistance, or both.

13. Penalties for Failure to Disclose and/or Provide Documentation of the SSN. In accordance with 24 CFR §5.218, the following penalties apply for noncompliance with the SSN disclosure and documentation requirements:

a. Applicants. The PHA must deny the eligibility of an assistance applicant if s/he (including each member of the household required to disclose his/her SSN) does not disclose a SSN and/or provide documentation of such SSN. However, if the family is otherwise eligible to participate in the program, the family may maintain his/her position on the waiting list for the time determined by the PHA. The PHA should prescribe in its policies, the maximum time the family may remain on the waiting list, pending disclosure of requested information. If all household members have not disclosed their SSN at the time a unit becomes available, the PHA must offer the available unit to the next eligible applicant family on the waiting list. Applicants to the Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) Program for Homeless Individuals, under 24 CFR §882, may be admitted to the program without providing the requested documentation (prior to or at admission), however, the individual must provide the PHA with such documentation within 90 calendar days from the date of admission. The PHA may grant the individual one 90-day extension, if in its discretion, determines that the individual's failure to comply with the SSN documentation requirement was due to unforeseen circumstances and outside the control of the family. If upon the expiration of the provided time period, the individual fails to comply with the SSN disclosure and documentation requirements, the PHA must terminate the individual's tenancy or assistance, or both.

b. Participants. The PHA must terminate the assistance of Section 8 program participants (the entire household) and terminate the tenancy of Public Housing participants (the entire household) if s/he (including each member of the household required to disclose his/her SSN) does not disclose his/her SSN and provide the required documentation. However, if the family is otherwise eligible for continued assistance or tenancy in the program, the PHA, at its discretion, may defer the family's termination and provide the family an opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family noncompliant with the SSN disclosure and documentation requirement, only if the PHA determines:

i. The failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside the control of the family; and

ii. There is a reasonable likelihood that the family will be able to disclose the SSN and provide such documentation of the SSN by the deadline. If the family is unable to comply with the requirements by the specified deadline, the PHA must terminate the entire family's tenancy or assistance, or both. The PHA must deny admission or terminate the family's tenancy or assistance, or both, if the family submits falsified SSN documentation.

14. PHA Penalties for Noncompliance. PHAs are required to ensure compliance with SSN disclosure, documentation, and verification requirements outlined in this notice and HUD regulations, including the enforcement of penalties for a family's failure to comply with the HUD requirements. PHAs may be subject to sanctions and/or the assessment of disallowed costs associated with any resulting incorrect subsidy or tenant rent calculation or both as a result of a PHA's noncompliance and/or enforcement of the SSN disclosure, documentation, and verification requirements outlined in this notice and the applicable HUD regulations.

15. Third Party Verification Requirement. PHAs are required to comply with admission and occupancy requirements for Public Housing under 24 CFR §960.259(c)(1) and Section 8 under 24 CFR §982.516(a)(2), which require PHAs to obtain and document in the family/tenant file, third party verification of the following factors, or

document in the file why third party verification was not available: (1) reported family annual income; (2) the value of assets; (3) expenses related to deductions from annual income; and (4) other factors that affect the determination of adjusted income or income-based rent. It is the Department's position that an SSA benefit verification letter (dated within the last 60 days of the PHA request date for information or within the PHA-tenant interview date) provided by the family or an undisputed EIV Income Report which displays the current social security benefit amount is third party verification. No additional verification is required by the PHA. SSA has requested that PHAs refrain from submitting requests to SSA to verify that a family is not receiving social security benefits. Should neither document be available or there is a conflict, refer to PIH Notice 2018-18, dated October 26, 2018 (or any successor notice).

16. Third Party Verification of SS/SSI Benefits of Applicants and Household Members. EIV does not contain SS and SSI benefit information of applicants for HUD's rental assistance programs. PHAs must ask applicants to provide a copy of their SS and/or SSI benefit letter, dated within the last 60 calendar days, for each household member that receives SS and/or SSI benefits. Do not send applicants to SSA offices if they do not have this information. Instead:

a. While meeting with the applicant, help the applicant request a benefit verification letter from SSA's website, Social Security Online, at: www.socialsecurity.gov. This service is free and SSA will send the letter to the applicant within 10 business days. To access the site for requesting benefit verification letters, go to the Social Security Online front page, click on the Online Services link; click on the applicable link. For example: If you get Social Security benefits or have Medicare you can, then click on the Get your benefit verification letter link; or, if you get Supplemental Security Income (SSI) you can, then click on the Get your benefit verification Letter link and follow the instructions on the Information about the Proof of Income Letter page. Assist the applicant in answering questions and explain how the applicant should provide the letter to your office; or b. Ask the applicant to request a Proof of Income Letter from SSA's toll-free number 800- 772-1213. Persons with speech or hearing impairments may call SSA's toll-free telephone typewriter (TTY) number 800-325-0778, Monday through Friday, between 7:00 a.m. and 7:00 p.m. Note: SSA encourages SS and SSI recipients to use SSA's web site rather than the tollfree number to request Proof of Income letters. c. The PHA must obtain the original SSA benefit letter from the individual, make a photocopy of the document for the PHA file and return the original document to the individual. The PHA is required to use the gross benefit amount reported on the SSA Proof of Income Letter to calculate annual income from social security benefits.

12 17. Third Party Verification of SS/SSI Benefits of Participants and Household Members. SSA-provided SS/SSI benefit information for participants and household members, who have validated personal identifiers (the individual's identity verification status in EIV is Verified), is available from HUD's online EIV system, which can be accessed by authorized PHA staff at: https://hudapps.hud.gov/HUD_Systems.

a. PHAs are required to use EIV to verify SS/SSI benefits of current participants and household members. PHAs who do not currently have access to EIV must contact their local HUD field office to register for access to the EIV system. PHA EIV access is set up by the PHA's designated EIV User administrator and approved by the EIV Coordinator in the local HUD office. Information regarding HUD's EIV system is available online at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/rhiip/uivsystem. PHAs are required to view the EIV Income Report and confirm with the tenant that the current listed benefit amount is correct. If the tenant agrees with the current EIV-reported amount, the PHA is required to use the EIV-reported gross benefit amount to calculate annual income from social security benefits. b. If the tenant disputes the EIV-

reported benefit amount, the PHA is required to request the tenant to provide a current (dated within the last 60 calendar days) SSA Proof of Income Letter. If the tenant is unable to provide the requested document, the PHA is required to follow the instructions under Third Party Verification of SS/SSI Benefits of Applicants and Household Members (see Paragraph 16 of this notice). The PHA is required to use the gross benefit amount reported on the SSA Proof of Income Letter to calculate annual income from social security benefits. c. If the tenant's benefit information is not available in the EIV system, the PHA is required to follow the instructions under Third Party Verification of SS/SSI Benefits of Applicants and Household Members (Paragraph 16 of this notice). The PHA is required to use the gross benefit amount reported on the SSA Proof of Income Letter to calculate annual income from social security benefits. Note: It is possible for EIV to not display SS/SSI benefit information although the individual has been receiving benefits for years. EIV displays only benefit information that has been received from SSA. d. Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits because the dollar amount listed may not be the gross benefit amount. Note: SS/SSI benefit information in the EIV system is updated every three months in accordance with the below schedule during the 1st and 15th of the month. Income information is posted to the family's individual EIV Income Report (accessible by using EIV's Income Information By Head of Household function). Recently posted SSA 13 income information during the work week (Monday through Friday) will not be available via batch EIV Income Reports (accessible by using EIV's Income Information By Reexamination Month function) until successful completion of EIV's weekend summarization job which posts updated information to all batch verification reports every Saturday morning. SS/SSI benefits are increased annually to reflect the SSA-approved cost of living adjustment (COLA) for all beneficiaries by December 31st in the EIV system. However, due to the large volume of data processed by the Department, there may be a delay in updating the new SS/SSI benefit amounts until January 15.

HUD-SSA Computer Matching Schedule	
PHA State	Month Matched
AK, DC, DE, GQ, HI, IA, IN, KS, LA, ME, NC, NE, NH, NJ, NV, OH, RI, SD, TN, TQ, TX, UT, VQ, VT, WV, WY	January, April, July, October
AL, FL, GA, ID, IL, KY, MD, MI, MO, ND, NY, VA	February, May, August, November
AR, AZ, CA, CO, CT, MA, MN, MS, MT, NM, OK, OR, PA, RQ, SC, WA, WI	March, June, September, December

18. SS and SSI Benefit Amounts Reported in EIV. All Federal SS and SSI benefit amounts are reported in EIV as whole dollar amounts. By law, SSA rounds all benefit amounts down to the next lower whole dollar. As such, the SS and SSI benefit amount listed on an SSA Proof of Income Letter may differ from what is reported in EIV. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV will display the amount as \$450.00. This disparity is unsubstantial and typically has no impact on the family rent contribution amount. However, to ensure consistency in the determination of annual SS and SSI income, PHAs are required to use the EIV-reported SS and SSI benefit amounts unless the tenant disputes the EIV-reported amount. In instances in which the family disputes the EIV-reported SS and/or SSI benefit amount, PHAs are required to follow the verification requirement outlined in Paragraph 16 of this notice and use the full amount listed on the SSA Proof of Income Letter and round the

final result of the calculation and report on the applicable line(s) of the form HUD-50058 as outlined below. Note: When calculating any monetary amount always use the full dollar amount and cents and round the final result. 19. Reporting of monetary figures on the form HUD-50058. Enter only whole dollar amounts. Do not include cents, commas, or dollar signs. Enter \$4,500.00 as 4500. Round each monetary amount up when a number is \$0.50 or above. Enter \$4,500.80 as 4501. Round each monetary amount down when a number is \$0.49 or below. Enter \$4,500.25 as 4500. 20. Applying SSA COLA to Current Annual and Interim Reexaminations. Each year during the month of October, SSA announces the COLA by which Federal SS and SSI benefits are 14 adjusted to reflect the increase, if any, in the cost of living as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers prepared by the Bureau of Labor Statistics. The purpose of the COLA is to ensure that the purchasing power of SS and SSI benefits are not eroded by inflation. The Federal COLA does not apply to State-paid disability benefits. Additional information regarding the SSA COLA is available online at www.socialsecurity.gov. Effective the day after SSA has announced the COLA, PHAs are required to factor in the COLA when determining SS and SSI annual income for all annual reexaminations and interim reexaminations (in accordance with PHA-established policy) of family income which have not yet been completed and will be effective January 1st or later of the upcoming year. Example: Bob Jones currently receives \$500 a month (SS benefit). You are currently working on his reexam (in November 2011) which is effective 02/01/2012. The PHA must determine annual SS income as follows: • Current benefit amount: $\$500 \times 3.6\%$ [or 0.036] (COLA rate) = \$18.00 COLA • New gross SS benefit effective 01/01/2012 = \$518.00 (\$500 current benefit + \$18 COLA) • Annual income effective 02/01/2012: $\$518 \times 12 = \$6,216.00$. 21. Treatment of SSA Overpayment Deductions from Social Security Benefits. SSA Overpayment Deductions. An overpayment occurs when SSA pays an individual more than s/he should have been paid. If this happens, SSA will notify the individual and his/her designated representative payee, if applicable. Recovery of an overpayment is made by withholding the monthly social security check until the overpayment is paid in full (individuals receiving SS benefits), unless the individual requests a lesser withholding amount and SSA approves the request. Full withholding would start 30 days after SSA notification of the overpayment. SSA begins deducting money (for overpayment recovery) from SSI payments at least 60 days after SSA notification of the overpayment. Generally, SSA will withhold 10 percent of the maximum Federal SSI benefit rate each month. However, an individual may request that less be taken from their benefit, or an individual may ask to pay back the overpayment at a rate greater than 10 percent. Regardless of the amount withheld to repay SSA the overpayment amount, or the length of the anticipated withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount. The PHA should be cognizant of the SSA-determined overpayment amount and length of time the reduced payment will occur, to ensure the family's accurate rent contribution for the duration of reduced income; however, circumstances may arise affecting the end date of the withholding period, causing it to go on longer than anticipated. See examples below. Note: A Social Security overpayment can be withheld from an SSI payment due to the beneficiary. Example 1: Bob's gross monthly SSI benefit is \$500 (or \$6,000 annually). On February 1, 2012, Bob brings in a letter showing that SSA has determined that he has been overpaid by 15 \$100 and will begin deducting 10% (\$50) from his monthly check on March 1, 2012. Note that this deduction would occur for only 2 months (March and April). The PHA would calculate annual income at \$5,400 ($\$500 - \$50 = \450×12) and Bob's rent contribution should be changed for two months; however, once the

deduction ends (May 2012), annual income should be recalculated again, and the full SSI benefit should again be used to calculate annual income. Example 2: Sue's gross monthly SSI benefit is \$500 (or \$6,000 annually). On February 1, 2012, Sue brings in a letter showing that SSA has determined that she has been overpaid by \$2,000 and will begin deducting 10% (\$50) from her monthly check on March 1, 2012. Note that this deduction would occur for 40 months. The PHA would calculate annual income at \$5,400 ($\$500 - \$50 = \450×12) and Sue's rent contribution should be changed and effective until the next reexamination of income, at which time a new redetermination would be made based on current information and documentation.

22. Additional Information Regarding Supplemental Security Income (SSI). This paragraph provides PHAs with additional information regarding federal SSI benefits paid by SSA which should be considered by the PHA at the time a family or individual applies for initial or continued participation in a HUD rental assistance program. Additional information is available online at: <http://www.ssa.gov/ssi/spotlights/spot-livingarrangements.htm> and <http://www.ssa.gov/ssi/text-benefits-ussi.htm>.

a. Generally, prior to the admission into a HUD rental assistance program, individuals who live in institutions such as hospitals, nursing homes, prisons or jails are not eligible for SSI or are only eligible for a maximum of \$30 a month (some States supplement this \$30 benefit). However, this reduced SSI benefit amount may increase once the individual reports his or her new residency address to SSA. Accordingly, PHAs must consider the increased benefit amount when conducting subsequent reexamination of family income in accordance with HUD requirements and the PHA's policies.

b. Some States supplement the Federal SSI benefit with additional payments. The following States do not supplement the Federal SSI benefit with additional payments: Arkansas, Arizona, Mississippi, North Dakota, Tennessee, and West Virginia. EIV will display (as reflected in the below EIV screenshot) the State-paid SSI amount as supplied by SSA for individuals that reside in the following States: California, Delaware, District of Columbia, Hawaii, Iowa, Michigan, Montana, Nevada, New Jersey, Pennsylvania, Rhode Island, and Vermont. Accordingly, PHAs must include State-paid SSI benefits in addition to Federal-paid SSI benefits when determining annual income in accordance with HUD requirements and the PHA's policies.

Supplemental Security Income Benefits		Payment History of Net Benefits Paid			
Verification Data		Date	Federal Amount	State Amount	Type of Payment
Payment Status Code:	001 - Current Pay				
Alien Indicator:	K				
SSI Monthly Assistance Amount (Current):	\$898.00	01/01/2012	\$899.00	\$188.00	Recurring Payment
State Supplement Amount (Current):	\$188.00	07/01/2011	\$874.00	\$188.00	Recurring Payment
Payee Name and Address:	MARTH	09/01/2010	\$874.00	\$171.00	Recurring Payment
		08/11/2010	\$38.00	\$0.00	Underpayment
		08/01/2010	\$874.00	\$171.00	Recurring Payment
		07/01/2010	\$835.00	\$171.00	Recurring Payment
		07/01/2010	\$38.00	\$0.00	Recovery Voided
		06/01/2010	\$874.00	\$171.00	Recurring Payment

Date Received by EIV: 12/02/2011

23. How to Ensure Availability of Social Security Benefit Information in the EIV System. The availability of SS and SSI benefit information in the EIV system depends on PHA data quality and timely submission of form HUD-50058 to the PIC. PHAs must ensure that data entered in section 3 of the form HUD-50058 (i.e., household members' name, date of birth and social security number) is complete and accurate. The first and last name of each household member reported on the form HUD-50058 must be listed exactly as it is listed on SSA records. If a family's form HUD-50058 is not successfully submitted to PIC or if it has been 15 or more

months since the effective date listed on the current form HUD-50058 available in PIC, HUD will not initiate computer matching for these individuals and new income information will not be available in EIV. In accordance with 24 CFR §5.233(a)(2)(ii), PHAs are required to use EIV to reduce administrative and subsidy payment errors. As such, PHAs are required to use EIV's Identity Verification Report on a monthly basis to correct noted deficiencies within 30 calendar days and improve the availability of income information in EIV. This report contains two reports (Failed EIV Pre-Screening and Failed SSA Identity Test), which can help the PHA improve the availability of income information and assist the PHA in identifying tenant personal identifiers that require correction. The Identity Verification Report contains a third report called Pending Verification. Below is a summary of how these reports can be beneficial to the PHA.

a. Failed EIV Pre-screening Report: Informs the PHA of any tenant who has failed HUD's EIV pre-screening process due to incorrect personal identifiers (date of birth, surname, and/or SSN) or invalid form HUD-50058 transmitted (e.g. effective date of action is 15 or more months ago – an indication of a possible overdue annual reexam). Household members with a PIC-generated ALT ID will appear on EIV's Immigration Report. Tenants that appear on this report are excluded from the data matching process with the SSA and Department of Health and Human Services' (HHS') National Directory of New Hires (NDNH). Thus, HUD will not request or obtain income information for these individuals. PHA staff is required to review this report on a monthly basis; if applicable, obtain appropriate documentation from the tenant, update section 3 of the form HUD-50058, 17 accordingly, and successfully transmit a corrected or updated form HUD-50058 to PIC; or use the PIC Tenant ID Management tool to replace incorrect SSNs, ITINs, or ALT IDs within 30 calendar days of receiving the SSN documentation. For invalid (PIC-rejected) forms HUD-50058, PHA staff is required to review the PIC Error Submission report and take appropriate action to correct the error and successfully submit a corrected form HUD-50058 to PIC in accordance with the PIC Technical Reference Guide available online at: <https://www.hud.gov/offices/pih/systems/pic/50058/pubs/trg>. Pages 184-186 provide guidance on how to correct specific PIC errors. The PIC Coach within the PHA's designated local HUD office is available to assist with PIC. Additional PIC help resources are available online at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/systems/pic/gethelp.

b. Failed SSA Identity Test Report: Informs the PHA of any tenant whose identity cannot be confirmed by SSA due to incorrect personally identifiable information (PII) (date of birth, surname, and/or SSN) recorded in section 3 of the form HUD-50058, which do not match the personal identifiers reported in SSA's database or SSA has determined that a tenant is deceased. HUD verifies all tenant-reported PII against the SSA database. For certain tenants, SSA will provide the date of birth and/or social security number as reported in SSA's files. PHAs are required to update the form HUD-50058 with the SSA-provided information. As outlined in Paragraph 10 of this notice, PHAs must use the PIC Tenant ID Management tool to replace incorrect SSNs or ALT IDs with the correct SSN. If a tenant disputes the SSA-provided information, the tenant must resolve this disparity with SSA. PHA staff is required to review this report monthly and if applicable, obtain appropriate documentation from the tenant, update section 3 of the form HUD-50058, accordingly, and successfully transmit a corrected form HUD-50058 to PIC within 30 calendar days. Effective April 30, 2012, the Failed SSA Identity Test Report (and the Income Report) will include the date SSA verified the tenant PII, as reflected in the below EIV screenshot. This feature will allow HUD and PHAs to monitor timely implementation of corrective action to address incorrect PII.

Failed EIV Pre-Screening **Failed SSA Identity Test** **Pending Verification**

Failed SSA Screening as of 12/31/2011				
Participant Code:	OH001 Columbus MHA			
Program Type:	All PIH Programs			
Reexamination Month:	All			
Households that Failed Verification:	102			
Action Type:	All			
Download in Excel Printer Friendly Version				
Next Group				
1 - 50 of 102 Households Last Page				
HOH SSN ***-**-2272 HOH Name Irush URZ SH HOH DOB 12/31/1976				
Member SSN	Member Name	Member DOB	Failed Verification Description	Date of Verification
***-**-0083	rszofwyz SZTZU	12/07/2010	Verification failed - SSN not found in SSA records	12/04/2010
HOH SSN ***-**-3404 HOH Name vskhpz NRZPRWYZ HOH DOB 12/31/1968				
Member SSN	Member Name	Member DOB	Failed Verification Description	Date of Verification
***-**-3404	vszhpz NRZPRWYZ	12/31/1968	Verification failed - Date of birth matched, but surname did not match with SSA records	12/04/2008
***-**-8235	vrnw ZHRNZ	01/07/1971	Verification failed - Date of birth matched, but surname did not match with SSA records	12/04/2008
***-**-4597	vrnw HZNSZIFWYZ	07/22/1998	Verification failed - Date of birth matched, but surname did not match with SSA records	12/04/2008
***-**-9825	vszhpz RCHZ	05/28/1994	Verification failed - SSN not found in SSA records	12/04/2008

c. Pending Verification Report: This report identifies households and household members in which the tenant PII is scheduled to be matched against SSA’s database with HUD’s next monthly computer matching effort in accordance with the computer matching schedule in Paragraph 17 of this notice.

SEE PIH NOTICE FOR TABLE

PHAs are authorized to implement the below HUD-approved workaround for any overdue reexamination which the PHA has not completed due to pending litigation. Authorized Workaround: 1. The PHA has the discretion to submit the following information to their local HUD field office but ONLY by using encrypted email: a. PHA Certification signed and dated by the Executive Director or designated official on the PHA’s letterhead, which states the following: i. I certify under the penalties of perjury that the attached list of head of household (HOH) names have an overdue reexamination due to pending litigation initiated by the Housing Authority or tenant. I agree to submit an updated form HUD-50058 to PIC, in accordance with HUD guidance, once the court has issued a final order or the family discontinues participation in a PIH rental assistance program, whichever occurs first. ii. I understand that HUD may request copies of court proceedings filed with the court and agree to furnish such documents and any other documents associated with the pending litigation upon written request of a HUD official. b. A listing of HOHs in which there is pending litigation, the type of pending litigation pending (e.g., wrongful termination, breach of lease, tenant holding overaction, etc.) the date the litigation began and court-assigned case number. i. PHAs must download the EIV Identity Verification/Failed EIV Pre-screening report into Excel (prior to implementing action item 3 below) to create the 23 listing. However, the PHA must delete all tenant social security numbers before sending the file to HUD. ii. Add the following columns to the report and provide the applicable information: > Date Litigation Initiated > Court-Assigned Case Number > Type of Litigation 2. The PHA will successfully submit an action type 3 (interim reexamination) form HUD-50058 to PIC in which line 2b, effective date contains a current date; line 2i, projected

effective date of next reexamination is equal to a date 12 month from the date listed on line 2b; and any line between 2q – 2u (PHA use only) contains the words “Pending Litigation.” 23. When the Identity Verification Report is Updated. Below is guidance to explain how the Identity Verification report is updated. Failed EIV Pre-Screening Report a. When the PHA corrects or updates information reported on section 2 or 3 of the form HUD-50058, EIV copies the data from PIC on a nightly basis. However, the Failed EIV Pre-Screening Report is updated on a weekly basis, on every Saturday morning upon successful completion of EIV’s weekend summarization job. PHAs are able to view the updated report on the following Monday. Failed SSA Identity Test Report b. When the PHA corrects or updates PII reported on section 3 of the form HUD50058, EIV copies the data from PIC on a nightly basis. However, the Failed SSA Identity Test Report is updated once the following actions occur: i. The updated PII is submitted to SSA for verification in the month following the month in which the updated form HUD-50058 was successfully submitted to PIC; and SSA returns the results (verified, failed, or deceased) of the data matching process to EIV; or ii. SSA updates the PII reported on its records and this information matches the PII reported on the form HUD-50058 when HUD submits the tenant PII to SSA for verification; and iii. Successful completion of the EIV’s weekend summarization job. After the above actions occur, PHAs are able to view the updated report the following Monday. Note: When an updated form HUD-50058 to correct a tenant’s PII is successfully submitted to PIC or a tenant’s SSN is corrected using the PIC Tenant ID Management tool, the tenant’s EIV identity verification status will change to Pending from Failed. This action is confirmation that the PHA has successfully submitted an updated form HUD-50058 to PIC and that HUD has flagged the 24 tenant record for data matching with SSA during the next monthly data matching process. For example, updated PII on forms HUD-50058 successfully submitted to PIC in January will be matched with SSA in February. These updated households will not appear on the Pending Verification Report unless these households were scheduled for the original quarterly computer matching process in accordance with the HUD-SSA Computer Matching Schedule in Paragraph 17 of this notice. 24. Penalties for Non-Compliance with Use of EIV’s Identity Verification Report. HUD will monitor each PHA’s Identity Verification Report on a quarterly basis and notify affected PHAs of the need to correct deficiencies and if requested by HUD, provide documentation and/or certification of PHA-implemented corrective action(s). PHAs may be subject to sanctions for noncompliance with this notice. 25. For inquiries about this Notice contact: Your local HUD field office or Rochelle Katz of HUD Headquarters’ Office of Public and Indian Housing, Real Estate Assessment Center Programs at 202-475-4967, or via email at: EIV_HELP@HUD.GOV. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 800-877-8339. 26. Paperwork Reduction. The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3520) and assigned OMB control number(s) 2577-0083 and 2577-0267. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. _____/s/ _____ Dominique Blom General Deputy Assistant Secretary for Public and Indian Housing

5(a) HUD-9886 Form – Authorization for the Release of Information/Privacy Act Notice
<https://www.hud.gov/sites/dfiles/OCHCO/documents/9886.pdf>

5(a) HUD-52675 Form – Debts Owed Form
<https://www.hud.gov/sites/dfiles/OCHCO/documents/52675.pdf> Expires 4/30/2023

7 CFR 24 § 960.259(c)(1)

§ 960.259 Family information and verification.

(a) *Family obligation to supply information.*

(1) The family must supply any information that the PHA or HUD determines is necessary in administration of the public housing program, including submission of required evidence of citizenship or eligible immigration status (as provided by part 5, subpart E of this title). “Information” includes any requested certification, release or other documentation.

(2) The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or an interim reexamination of family income and composition in accordance with HUD requirements.

(3) For requirements concerning the following, see part 5, subpart B of this title:

(i) Family verification and disclosure of social security numbers;

(ii) Family execution and submission of consent forms for obtaining wage and claim information from State Wage Information Collection Agencies (SWICAs).

(4) Any information supplied by the family must be true and complete.

(b) *Family release and consent.*

(1) As a condition of admission to or continued assistance under the program, the PHA shall require the family head, and such other family members as the PHA designates, to execute a consent form (including any release and consent as required under § 5.230 of this title) authorizing any depository or private source of income, or any Federal, State or local agency, to furnish or release to the PHA or HUD such information as the PHA or HUD determines to be necessary.

(2) The use or disclosure of information obtained from a family or from another source pursuant to this release and consent shall be limited to purposes directly connected with administration of the program.

(c) *PHA responsibility for reexamination and verification.*

(1) Except as provided in paragraph (c)(2) of this section, the PHA must obtain and document in the family file third-party verification of the following factors, or must document in the file why third-party verification was not available:

(i) Reported family annual income;

(ii) The value of assets;

(iii) Expenses related to deductions from annual income; and

(iv) Other factors that affect the determination of adjusted income or income-based rent.

(2) For a family with net assets equal to or less than \$5,000, a PHA may accept, for purposes of recertification of income, a family's declaration that it has net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration.

(i) The declaration must state the amount of income the family expects to receive from such assets; this amount must be included in the family's income.

(ii) A PHA must obtain third-party verification of all family assets every 3 years.

[65 FR 16726, Mar. 29, 2000, as amended at 81 FR 12373, Mar. 8, 2016]

8 CFR 24 § 5.210 Purpose, Applicability, and Federal Preemption

§ 5.210 Purpose, applicability, and Federal preemption.

Purpose. This subpart B requires applicants for and participants in covered HUD programs to disclose, and submit documentation to verify, their Social Security Numbers (SSNs). This subpart B also enables HUD and PHAs to obtain income information about applicants and participants in the covered programs through computer matches with State Wage Information Collection Agencies (SWICAs) and Federal agencies, in order to verify an applicant's or participant's eligibility for or level of assistance. The purpose of this subpart B is to enable HUD to decrease the incidence of fraud, waste, and abuse in the covered programs.

(b) *Applicability.*

(1) This subpart B applies to mortgage and loan insurance and coinsurance and housing assistance programs contained in chapter II, subchapter B, and chapters VIII and IX of this title.

(2) The information covered by consent forms described in this subpart involves income information from SWICAs, and wages, net earnings from self-employment, payments of retirement income, and unearned income as referenced at 26 U.S.C. 6103. In addition, consent forms may authorize the collection of other information from applicants and participants to determine eligibility or level of benefits.

(c) *Federal preemption.* This subpart B preempts any State law, including restrictions and penalties, that governs the collection and use of income information to the extent State law is inconsistent with this subpart.

[61 FR 11113, Mar. 18, 1996, as amended at 65 FR 16715, Mar. 29, 2000]

8(b)(2) 26 US Code § 6103 Confidentiality and Disclosure of returns and return information

[https://uscode.house.gov/view.xhtml?req=\(title:26%20section:6103%20edition:prelim\)](https://uscode.house.gov/view.xhtml?req=(title:26%20section:6103%20edition:prelim))

This is the US Tax Code and is very lengthy.

8(c)(iv); & 8(c)(viii); & 14 - 24 CFR § 5.514 Delay, Denial, Reduction or Termination of Assistance

§ 5.514 Delay, denial, reduction or termination of assistance.

(a) General. Assistance to a family may not be delayed, denied, reduced or terminated because of the immigration status of a family member except as provided in this section.

(b) Restrictions on delay, denial, reduction or termination of assistance -

(1) Restrictions on reduction, denial or termination of assistance for applicants and tenants. Assistance to an applicant or tenant shall not be delayed, denied, reduced, or terminated, on the basis of ineligible immigration status of a family member if:

(i) The primary and secondary verification of any immigration documents that were timely submitted has not been completed;

(ii) The family member for whom required evidence has not been submitted has moved from the assisted dwelling unit;

(iii) The family member who is determined not to be in an eligible immigration status following INS verification has moved from the assisted dwelling unit;

(iv) The INS appeals process under § 5.514(e) has not been concluded;

- (v) Assistance is prorated in accordance with § 5.520; or
 - (vi) Assistance for a mixed family is continued in accordance with §§ 5.516 and 5.518; or
 - (vii) Deferral of termination of assistance is granted in accordance with §§ 5.516 and 5.518.
- (2) Restrictions on delay, denial, reduction or termination of assistance pending fair hearing for tenants. In addition to the factors listed in paragraph (b)(1) of this section, assistance to a tenant cannot be delayed, denied, reduced or terminated until the completion of the informal hearing described in paragraph (f) of this section.
- (c) Events causing denial or termination of assistance -
- (1) General. Assistance to an applicant shall be denied, and a tenant's assistance shall be terminated, in accordance with the procedures of this section, upon the occurrence of any of the following events:
 - (i) Evidence of citizenship (i.e., the declaration) and eligible immigration status is not submitted by the date specified in § 5.508(g) or by the expiration of any extension granted in accordance with § 5.508(h);
 - (ii) Evidence of citizenship and eligible immigration status is timely submitted, but INS primary and secondary verification does not verify eligible immigration status of a family member; and
 - (A) The family does not pursue INS appeal or informal hearing rights as provided in this section; or
 - (B) INS appeal and informal hearing rights are pursued, but the final appeal or hearing decisions are decided against the family member; or
 - (iii) The responsible entity determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the public or assisted housing unit of the family member. Such termination shall be for a period of not less than 24 months. This provision does not apply to a family if the ineligibility of the ineligible individual was considered in calculating any proration of assistance provided for the family.
 - (2) Termination of assisted occupancy. For termination of assisted occupancy, see paragraph (i) of this section.
- (d) Notice of denial or termination of assistance. The notice of denial or termination of assistance shall advise the family:
- (1) That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance;
 - (2) That the family may be eligible for proration of assistance as provided under § 5.520;
 - (3) In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families in §§ 5.514 and 5.518;
 - (4) That the family has a right to request an appeal to the INS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal in accordance with the procedures of paragraph (e) of this section;
 - (5) That the family has a right to request an informal hearing with the responsible entity either upon completion of the INS appeal or in lieu of the INS appeal as provided in paragraph (f) of this section;
 - (6) For applicants, the notice shall advise that assistance may not be delayed until the conclusion of the INS appeal process, but assistance may be delayed during the pendency of the informal hearing process.

(e) Appeal to the INS -

(1) Submission of request for appeal. Upon receipt of notification by the responsible entity that INS secondary verification failed to confirm eligible immigration status, the responsible entity shall notify the family of the results of the INS verification, and the family shall have 30 days from the date of the responsible entity's notification, to request an appeal of the INS results. The request for appeal shall be made by the family communicating that request in writing directly to the INS. The family must provide the responsible entity with a copy of the written request for appeal and proof of mailing.

(2) Documentation to be submitted as part of appeal to INS. The family shall forward to the designated INS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the INS document verification request form G-845S (used to process the secondary verification request) or such other form specified by the INS, and a cover letter indicating that the family is requesting an appeal of the INS immigration status verification results.

(3) Decision by INS -

(i) When decision will be issued. The INS will issue to the family, with a copy to the responsible entity, a decision within 30 days of its receipt of documentation concerning the family's appeal of the verification of immigration status. If, for any reason, the INS is unable to issue a decision within the 30 day time period, the INS will inform the family and responsible entity of the reasons for the delay.

(ii) Notification of INS decision and of informal hearing procedures. When the responsible entity receives a copy of the INS decision, the responsible entity shall notify the family of its right to request an informal hearing on the responsible entity's ineligibility determination in accordance with the procedures of paragraph (f) of this section.

(4) No delay, denial, reduction, or termination of assistance until completion of INS appeal process; direct appeal to INS. Pending the completion of the INS appeal under this section, assistance may not be delayed, denied, reduced or terminated on the basis of immigration status.

(f) Informal hearing -

(1) When request for hearing is to be made. After notification of the INS decision on appeal, or in lieu of request of appeal to the INS, the family may request that the responsible entity provide a hearing. This request must be made either within 30 days of receipt of the notice described in paragraph (d) of this section, or within 30 days of receipt of the INS appeal decision issued in accordance with paragraph (e) of this section.

(2) Informal hearing procedures -

(i) Tenants assisted under a Section 8 covered program: For tenants assisted under a Section 8 covered program, the procedures for the hearing before the responsible entity are set forth in:

(A) For Section 8 Moderate Rehabilitation assistance: 24 CFR part 882;

(B) For Section 8 tenant-based assistance: 24 CFR part 982; or

(C) For Section 8 project-based certificate program: 24 CFR part 983.

(ii) Tenants assisted under any other Section 8 covered program or a Public Housing covered program: For tenants assisted under a Section 8 covered program not listed in paragraph (f)(3)(i) of this section or a Public Housing covered program, the procedures for the hearing before the responsible entity are set forth in 24 CFR part 966.

(iii) Families under Housing covered programs and applicants for assistance under all covered programs. For all families under Housing covered programs (applicants as well as tenants already receiving assistance) and for applicants for assistance under all covered programs, the procedures for the informal hearing before the responsible entity are as follows:

(A) Hearing before an impartial individual. The family shall be provided a hearing before any person(s) designated by the responsible entity (including an officer or employee of the responsible entity), other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision;

(B) Examination of evidence. The family shall be provided the opportunity to examine and copy at the individual's expense, at a reasonable time in advance of the hearing, any documents in the possession of the responsible entity pertaining to the family's eligibility status, or in the possession of the INS (as permitted by INS requirements), including any records and regulations that may be relevant to the hearing;

(C) Presentation of evidence and arguments in support of eligible status. The family shall be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings;

(D) Controverting evidence of the responsible entity. The family shall be provided the opportunity to controvert evidence relied upon by the responsible entity and to confront and cross-examine all witnesses on whose testimony or information the responsible entity relies;

(E) Representation. The family shall be entitled to be represented by an attorney, or other designee, at the family's expense, and to have such person make statements on the family's behalf;

(F) Interpretive services. The family shall be entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or responsible entity, as may be agreed upon by the two parties to the proceeding; and

(G) Hearing to be recorded. The family shall be entitled to have the hearing recorded by audiotape (a transcript of the hearing may, but is not required to, be provided by the responsible entity).

(3) Hearing decision. The responsible entity shall provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 days of the date of the informal hearing. The decision shall state the basis for the decision.

(g) Judicial relief. A decision against a family member, issued in accordance with paragraphs (e) or (f) of this section, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

(h) Retention of documents. The responsible entity shall retain for a minimum of 5 years the following documents that may have been submitted to the responsible entity by the family, or provided to the responsible entity as part of the INS appeal or the informal hearing process:

(1) The application for financial assistance;

(2) The form completed by the family for income reexamination;

(3) Photocopies of any original documents (front and back), including original INS documents;

(4) The signed verification consent form;

- (5) The INS verification results;
 - (6) The request for an INS appeal;
 - (7) The final INS determination;
 - (8) The request for an informal hearing; and
 - (9) The final informal hearing decision.
- (i) Termination of assisted occupancy.
- (1) Under Housing covered programs, and in the Section 8 covered programs other than the Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation programs, assisted occupancy is terminated by:
 - (i) If permitted under the lease, the responsible entity notifying the tenant that because of the termination of assisted occupancy the tenant is required to pay the HUD-approved market rent for the dwelling unit.
 - (ii) The responsible entity and tenant entering into a new lease without financial assistance.
 - (iii) The responsible entity evicting the tenant. While the tenant continues in occupancy of the unit, the responsible entity may continue to receive assistance payments if action to terminate the tenancy under an assisted lease is promptly initiated and diligently pursued, in accordance with the terms of the lease, and if eviction of the tenant is undertaken by judicial action pursuant to State and local law. Action by the responsible entity to terminate the tenancy and to evict the tenant must be in accordance with applicable HUD regulations and other HUD requirements. For any jurisdiction, HUD may prescribe a maximum period during which assistance payments may be continued during eviction proceedings and may prescribe other standards of reasonable diligence for the prosecution of eviction proceedings.
 - (2) In the Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation programs, assisted occupancy is terminated by terminating assistance payments. (See provisions of this section concerning termination of assistance.) The PHA shall not make any additional assistance payments to the owner after the required procedures specified in this section have been completed. In addition, the PHA shall not approve a lease, enter into an assistance contract, or process a portability move for the family after those procedures have been completed.

[61 FR 13616, Mar. 27, 1996, as amended at 61 FR 60539, Nov. 29, 1996; 64 FR 25731, May 12, 1999]

8(c)(v) 24 CFR § 5.520 Proration of Assistance

§ 5.520 Proration of assistance.

- (a) *Applicability.* This section applies to a mixed family other than a family receiving continued assistance, or other than a family who is eligible for and requests and receives temporary deferral of termination of assistance. An eligible mixed family who requests prorated assistance must be provided prorated assistance.
- (b) *Method of prorating assistance for Housing covered programs -*
 - (1) *Proration under Rent Supplement Program.* If the household participates in the Rent Supplement Program, the rent supplement paid on the household's behalf shall be the rent supplement the household would otherwise be entitled to, multiplied by a fraction, the denominator of which is the number of people in the household and the numerator of which is the number of eligible persons in the household;

(2) *Proration under Section 235 Program.* If the household participates in the Section 235 Program, the interest reduction payments paid on the household's behalf shall be the payments the household would otherwise be entitled to, multiplied by a fraction the denominator of which is the number of people in the household and the numerator of which is the number of eligible persons in the household;

(3) *Proration under Section 236 Program without the benefit of additional assistance.* If the household participates in the Section 236 Program without the benefit of any additional assistance, the household's rent shall be increased above the rent the household would otherwise pay by an amount equal to the difference between the market rate rent for the unit and the rent the household would otherwise pay multiplied by a fraction the denominator of which is the number of people in the household and the numerator of which is the number of ineligible persons in the household;

(4) *Proration under Section 236 Program with the benefit of additional assistance.* If the household participates in the Section 236 Program with the benefit of additional assistance under the rent supplement, rental assistance payment or Section 8 programs, the household's rent shall be increased above the rent the household would otherwise pay by:

(i) An amount equal to the difference between the market rate rent for the unit and the basic rent for the unit multiplied by a fraction, the denominator of which is the number of people in the household, and the numerator of which is the number of ineligible persons in the household, plus;

(ii) An amount equal to the rent supplement, housing assistance payment or rental assistance payment the household would otherwise be entitled to multiplied by a fraction, the denominator of which is the number of people in the household and the numerator of which is the number of ineligible persons in the household.

(c) *Method of prorating assistance for Section 8 covered programs -*

(1) *Section 8 assistance other than assistance provided for a tenancy under the Section 8 Housing Choice Voucher Program.* For Section 8 assistance other than assistance for a tenancy under the voucher program, the PHA must prorate the family's assistance as follows:

(i) *Step 1.* Determine gross rent for the unit. (Gross rent is contract rent plus any allowance for tenant paid utilities).

(ii) *Step 2.* Determine total tenant payment in accordance with section 5.613(a). (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)

(iii) *Step 3.* Subtract amount determined in paragraph (c)(1)(ii), (Step 2), from amount determined in paragraph (c)(1)(i), (Step 1).

(iv) *Step 4.* Multiply the amount determined in paragraph (c)(1)(iii), (Step 3) by a fraction for which:

(A) The numerator is the number of family members who have established eligible immigration status; and

(B) The denominator is the total number of family members.

(v) *Prorated housing assistance.* The amount determined in paragraph (c)(1)(iv) (Step 4) is the prorated housing assistance payment for a mixed family.

(vi) *No effect on contract rent.* Proration of the housing assistance payment does not affect contract rent to the owner. The family must pay as rent the portion of contract rent not covered by the prorated housing assistance payment.

(2) *Assistance for a Section 8 voucher tenancy.* For a tenancy under the voucher program, the PHA must prorate the family's assistance as follows:

(i) *Step 1.* Determine the amount of the pre-proration housing assistance payment. (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)

(ii) *Step 2.* Multiply the amount determined in paragraph (c)(2)(i) (Step 1) by a fraction for which:

(A) The numerator is the number of family members who have established eligible immigration status; and

(B) The denominator is the total number of family members.

(iii) *Prorated housing assistance.* The amount determined in paragraph (c)(2)(ii) (Step 2) is the prorated housing assistance payment for a mixed family.

(iv) *No effect on rent to owner.* Proration of the housing assistance payment does not affect rent to owner. The family must pay the portion of rent to owner not covered by the prorated housing assistance payment.

(d) *Method of prorating assistance for Public Housing covered programs.*

(1) The PHA must prorate the family's assistance as follows:

(i) *Step 1.* Determine the total tenant payment in accordance with section 5.628. (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)

(ii) *Step 2.* Subtract the total tenant payment from the PHA-established flat rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible ("family maximum subsidy").

(iii) *Step 3.* Divide the family maximum subsidy by the number of persons in the family (all persons) to determine the maximum subsidy per each family member who has citizenship or eligible immigration status ("eligible family member"). The subsidy per eligible family member is the "member maximum subsidy."

(iv) *Step 4.* Multiply the member maximum subsidy by the number of family members who have citizenship or eligible immigration status ("eligible family members").

(2) The product of steps 1 through 4 of paragraphs (d)(1)(i) through (iv) of this section is the amount of subsidy for which the family is eligible ("eligible subsidy"). The family's rent is the PHA-established flat rent minus the amount of the eligible subsidy.

(e) *Method of prorating assistance when the mixed family's total tenant payment (TTP) is greater than the public housing flat rent.* When the mixed family's TTP is greater than the flat rent, the PHA must use the TTP as the mixed family TTP. The PHA subtracts from the mixed family TTP any established utility allowance, and the sum becomes the mixed family rent.

[61 FR 5202, Feb. 9, 1996, as amended at 63 FR 23853, Apr. 30, 1998; 64 FR 13056, Mar. 16, 1999; 81 FR 12370, Mar. 8, 2016]

8(c)(vi); 8(c)(vii) 24 CFR § 5.516 Availability of preservation assistance to mixed families and other families

§ 5.516 Availability of preservation assistance to mixed families and other families.

Assistance available for tenant mixed families -

(1) *General.* Preservation assistance is available to tenant mixed families, following completion of the appeals and informal hearing procedures provided in § 5.514. There are three types of preservation assistance:

- (i) Continued assistance (see paragraph (a) of § 5.518);
- (ii) Temporary deferral of termination of assistance (see paragraph (b) of § 5.518); or
- (iii) Prorated assistance (see § 5.520, a mixed family must be provided prorated assistance if the family so requests).

(2) *Availability of assistance -*

(i) *For Housing covered programs:* One of the three types of assistance described is available to tenant mixed families assisted under a National Housing Act or 1965 HUD Act covered program, depending upon the family's eligibility for such assistance. Continued assistance must be provided to a mixed family that meets the conditions for eligibility for continued assistance.

(ii) *For Section 8 or Public Housing covered programs.* One of the three types of assistance described may be available to tenant mixed families assisted under a Section 8 or Public Housing covered program.

(b) *Assistance available for applicant mixed families.* Prorated assistance is also available for mixed families applying for assistance as provided in § 5.520.

(c) *Assistance available to other families in occupancy.* Temporary deferral of termination of assistance may be available to families receiving assistance under a Section 214 covered program on June 19, 1995, and who have no members with eligible immigration status, as set forth in paragraphs (c)(1) and (2) of this section.

(1) *For Housing covered programs:* Temporary deferral of termination of assistance is available to families assisted under a Housing covered program.

(2) *For Section 8 or Public Housing covered programs:* The responsible entity may make temporary deferral of termination of assistance to families assisted under a Section 8 or Public Housing covered program.

(d) *Section 8 covered programs: Discretion afforded to provide certain family preservation assistance -*

(1) *Project owners.* With respect to assistance under a Section 8 Act covered program administered by a project owner, HUD has the discretion to determine under what circumstances families are to be provided one of the two statutory forms of assistance for preservation of the family (continued assistance or temporary deferral of assistance). HUD is exercising its discretion by specifying the standards in this section under which a project owner must provide one of these two types of assistance to a family. However, project owners and PHAs must offer prorated assistance to eligible mixed families.

(2) *PHAs.* The PHA, rather than HUD, has the discretion to determine the circumstances under which a family will be offered one of the two statutory forms of assistance (continued assistance or temporary deferral of termination of assistance). The PHA must establish its own policy and criteria to follow in making its decision. In establishing the criteria for granting continued assistance or temporary deferral of termination of assistance, the PHA must incorporate the statutory criteria, which are set forth in paragraphs (a) and (b) of § 5.518. However, the PHA must offer prorated assistance to eligible families.

[61 FR 13616, Mar. 27, 1996, as amended at 61 FR 60539, Nov. 29, 1996; 64 FR 25732, May 12, 1999]

8(c)(vi); 8(c)(vii) 24 CFR § 5.518 Types of preservation assistance available to mixed families and other families

§ 5.518 Types of preservation assistance available to mixed families and other families.

(a) Continued assistance -

(1) General. A mixed family may receive continued housing assistance if all of the following conditions are met (a mixed family assisted under a Housing covered program must be provided continued assistance if the family meets the following conditions):

(i) The family was receiving assistance under a Section 214 covered program on June 19, 1995;

(ii) The family's head of household or spouse has eligible immigration status as described in § 5.506; and

(iii) The family does not include any person (who does not have eligible immigration status) other than the head of household, any spouse of the head of household, any parents of the head of household, any parents of the spouse, or any children of the head of household or spouse.

(2) Proration of continued assistance. A family entitled to continued assistance before November 29, 1996 is entitled to continued assistance as described in paragraph (a) of this section. A family entitled to continued assistance after November 29, 1996 shall receive prorated assistance as described in § 5.520.

(b) Temporary deferral of termination of assistance -

(1) Eligibility for this type of assistance. If a mixed family qualifies for prorated assistance (and does not qualify for continued assistance), but decides not to accept prorated assistance, or if a family has no members with eligible immigration status, the family may be eligible for temporary deferral of termination of assistance if necessary to permit the family additional time for the orderly transition of those family members with ineligible status, and any other family members involved, to other affordable housing. Other affordable housing is used in the context of transition of an ineligible family from a rent level that reflects HUD assistance to a rent level that is unassisted; the term refers to housing that is not substandard, that is of appropriate size for the family and that can be rented for an amount not exceeding the amount that the family pays for rent, including utilities, plus 25 percent.

(2) Housing covered programs: Conditions for granting temporary deferral of termination of assistance. The responsible entity shall grant a temporary deferral of termination of assistance to a mixed family if the family is assisted under a Housing covered program and one of the following conditions is met:

(i) The family demonstrates that reasonable efforts to find other affordable housing of appropriate size have been unsuccessful (for purposes of this section, reasonable efforts include seeking information from, and pursuing leads obtained from the State housing agency, the city government, local newspapers, rental agencies and the owner);

(ii) The vacancy rate for affordable housing of appropriate size is below five percent in the housing market for the area in which the project is located; or

(iii) The consolidated plan, as described in 24 CFR part 91 and if applicable to the covered program, indicates that the local jurisdiction's housing market lacks sufficient affordable housing opportunities for households having a size and income similar to the family seeking the deferral.

(3) Time limit on deferral period. If temporary deferral of termination of assistance is granted, the deferral period shall be for an initial period not to exceed six months. The initial period may be renewed for additional periods of six months, but the aggregate deferral period for deferrals provided after November 29, 1996 shall not exceed a period of eighteen months. The aggregate deferral period for deferrals granted prior to November 29, 1996 shall not exceed 3

years. These time periods do not apply to a family which includes a refugee under section 207 of the Immigration and Nationality Act or an individual seeking asylum under section 208 of that Act.

(4) Notification requirements for beginning of each deferral period. At the beginning of each deferral period, the responsible entity must inform the family of its ineligibility for financial assistance and offer the family information concerning, and referrals to assist in finding, other affordable housing.

(5) Determination of availability of affordable housing at end of each deferral period.

(i) Before the end of each deferral period, the responsible entity must satisfy the applicable requirements of either paragraph (b)(5)(i)(A) or (B) of this section. Specifically, the responsible entity must:

(A) For Housing covered programs: Make a determination that one of the two conditions specified in paragraph (b)(2) of this section continues to be met (note: affordable housing will be determined to be available if the vacancy rate is five percent or greater), the owner's knowledge and the tenant's evidence indicate that other affordable housing is available; or

(B) For Section 8 or Public Housing covered programs: Make a determination of the availability of affordable housing of appropriate size based on evidence of conditions which when taken together will demonstrate an inadequate supply of affordable housing for the area in which the project is located, the consolidated plan (if applicable, as described in 24 CFR part 91), the responsible entity's own knowledge of the availability of affordable housing, and on evidence of the tenant family's efforts to locate such housing.

(ii) The responsible entity must also:

(A) Notify the tenant family in writing, at least 60 days in advance of the expiration of the deferral period, that termination will be deferred again (provided that the granting of another deferral will not result in aggregate deferral periods that exceeds the maximum deferral period). This time period does not apply to a family which includes a refugee under section 207 of the Immigration and Nationality Act or an individual seeking asylum under section 208 of that Act, and a determination was made that other affordable housing is not available; or

(B) Notify the tenant family in writing, at least 60 days in advance of the expiration of the deferral period, that termination of financial assistance will not be deferred because either granting another deferral will result in aggregate deferral periods that exceed the maximum deferral period (unless the family includes a refugee under section 207 of the Immigration and Nationality Act or an individual seeking asylum under section 208 of that Act), or a determination has been made that other affordable housing is available.

(c) Option to select proration of assistance at end of deferral period. A family who is eligible for, and receives temporary deferral of termination of assistance, may request, and the responsible entity shall provide proration of assistance at the end of the deferral period if the family has made a good faith effort during the deferral period to locate other affordable housing.

(d) Notification of decision on family preservation assistance. A responsible entity shall notify the family of its decision concerning the family's qualification for family preservation assistance. If the family is ineligible for family preservation assistance, the notification shall state the reasons, which must be based on relevant factors. For tenant families, the notice also shall inform the family of any applicable appeal rights.

[61 FR 13616, Mar. 27, 1996, as amended at 61 FR 60539, Nov. 29, 1996; 64 FR 25732, May 12, 1999]