South Metro Housing Options

TENANT SELECTION PLAN (TSP)

PROJECT-BASED RENTAL ASSISTANCE (PBRA) PROGRAM

May 2024

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Authority for SMHO policies is derived from many sources. Primary among these sources are regulations and guidance issued by U.S. Department of Housing and Urban Development (HUD). State law also directs SMHO policy. State law must be followed where such law exists and does not conflict with federal regulations. In the absence of legal requirements or HUD guidance, industry practice may lead to SMHO policy.

HUD

HUD provides the primary source of SMHO policy through federal regulations, HUD notices, and handbooks. Compliance with federal regulations, current HUD notices, and HUD handbooks is mandatory.

Content contained on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations to a specific pattern.

State Law

Where there is no mandatory federal guidance, SMHO must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, SMHO should follow the state law.

Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support O/A policy. An industry practice is a way of doing things that is followed by most Multifamily PBRA properties.

Resources and Where to Find Them

Following is a list of resources helpful to SMHO or referenced in the TSP, and the online location of each.

Document and Location
The HUD website is http://portal.hud.gov/hudportal/HUD
Guidebooks, handbooks, and other HUD resources may be found at the HUDClips website: http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips
Code of Federal Regulations http://www.ecfr.gov
Federal Register http://www.gpo.gov/fdsys/search/getfrtoc.action

HUD Handbook 4350.3, REV-1, Occupancy Requirements of Subsidized Multifamily Housing Programs http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsgh/4350.3
Housing (H) Notices http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/notices/hsg
Multifamily HOTMA resources page https://www.hud.gov/program_offices/housing/mfh/hotma
HOTMA Final Rule https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&utm_source=federalregister.gov&utm_medium=email
HOTMA Implementation Notice, H 2023-10 https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf
RAD Notice Revision 4 (H 2019-09/PIH 2019-23) https://www.hud.gov/sites/dfiles/Housing/documents/H-2019-09-PIH-2019-23_RAD_Notice%20Rev4_20190905
RAD Supplemental Notice 4b https://www.hud.gov/sites/dfiles/Housing/documents/RADSupplementalNotice4B%20_FINAL.pdf
RAD Quick Reference Guide for to Multifamily Housing Requirements (11/23) https://www.radresource.net/output.cfm?id=pbraquick&utm_campaign=PIH%20Alerts&utm_medium=email&_hsmi=282086431&_hsenc=p2ANqtz--9yzAmA_JkwnVjUy2tZ73vCe6oTiylap19Hf7QZzIz9kg43zrEj0Xc6D-4chV-epQ1y3_AM8HjIReOREgiMCDHZyShzA&utm_content=282086431&utm_source=hs_email
RAD Welcome Guide for New Awardees: RAD 1st Component (3/15) http://portal.hud.gov/hudportal/documents/huddoc?id=RAD_WelcomeGui_1stComp.pdf
RAD FAQs http://www.radresource.net/search.cfm
Violence Against Women Act (VAWA) Resources https://www.hud.gov/vawa
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf
Colorado Department of Regulatory Agencies (DORA) - Colorado Anti-Discrimination Act (CADA) information https://ccrd.colorado.gov/ccrd-home/regulatory-information

Chapter 1

NONDISCRIMINATION

1-A. OVERVIEW

Federal and State laws require SMHO to treat all applicants and tenant families equally, providing the same quality of service, regardless of family characteristics and background. SMHO shall not discriminate against any individual or family in the provision of housing or housing services on the basis of:

1. race,
2. color,
3. national origin,
4. religion,
5. sex (gender),
6. age (except as permitted by federal law to provide housing for the elderly),
7. disability,
8. familial status (including LGBT),
9. marital status,
10. creed,
11. ancestry,
12. sexual orientation,
13. pregnancy,
14. parenthood,
15. the mental or physical disability of an individual's friends or associates,
16. veteran or military status (except as permitted by federal law to provide housing for veterans or the military),
17. gender identity,
18. gender status,
19. gender expression, or
20. source of income.

In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. SMHO will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the Federal Register February 3, 2012

- The Violence against Women Reauthorization Act of 2013 (VAWA)
- The Colorado Anti-Discrimination Act (CADA), Part 5 – Housing Practices, C.R.S. 24-34-501, et. seq. - The Colorado statute covers the same protected classes as the Federal Fair Housing Act and also adds nine more protected classes: ancestry, marital status, creed, sexual orientation, veteran or military status, gender identity, gender status, gender expression, and source of income.
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

When more than one civil rights law applies to a situation, the laws will be read and applied together.

SMHO Nondiscrimination Policy

1-B. NONDISCRIMINATION

Federal and State laws and regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as SMHO policies, can prohibit discrimination against additional classes of people.

SMHO shall not discriminate because of race, color, sex, religion, familial status, age (except as permitted by federal law to provide housing for the elderly), disability, or national origin (called "protected classes").

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

SMHO will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12].

<u>SMHO Additional Protected Classes Policy</u>

- SMHO identifies nine additional protected classes: ancestry, marital status, creed, sexual orientation, veteran or military status, gender identity, gender status, gender expression, and source of income, as provided under the Colorado Anti-Discrimination Act (CADA), Part 5 – Housing Practices.

SMHO will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the program
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant toward or away from a particular area based on any of these factors
- Deny anyone access to the same level of services
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class (except as permitted by law to provide housing for the elderly or persons with veteran or military status).

1-C. POLICIES RELATED TO PERSONS WITH DISABILITIES

SMHO must ensure that persons with disabilities have full access to SMHO's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the PBRA program [24 CFR Part 8].

SMHO Persons with Disabilities Policy

SMHO will ask all applicants and resident families if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by SMHO, by including the following language:

> "If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact SMHO."

A specific position and phone number will be provided as the contact person for requests for accommodation for persons with disabilities.

1-D. REASONABLE ACCOMODATION

A *reasonable accommodation* is a change, exception, or adjustment to a policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

1-E. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that SMHO treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to SMHO's programs and services.

If the need for the accommodation is not readily apparent or known to SMHO, the family must explain the relationship between the requested accommodation and the disability.

SMHO Reasonable Accommodation Policy

SMHO will encourage the family to make its request in writing using a reasonable accommodation request form. However, SMHO will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

1-F. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities can be found at 24 CFR Parts 8.3 and 100.201. The definition of a *person with a disability* for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of *disability*, which is used for waiting list preferences and income allowances.

Before providing an accommodation, SMHO must determine that the person meets the definition of a *person with a disability,* and that the accommodation will enhance the family's access to the SMHO's programs and services.

If a person's disability is obvious or otherwise known to SMHO, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to SMHO, SMHO must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].
- SMHO must request only information that is necessary to evaluate the disability-related need for the accommodation. SMHO may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.

1-G. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

SMHO must approve a request for an accommodation if the following three conditions are met:

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on SMHO, or fundamentally alter the nature of SMHO's operations.

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the overall size of SMHO's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, SMHO may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that SMHO may verify the need for the requested accommodation.

SMHO RA Determination Policy

After a request for an accommodation is presented and all necessary information received, SMHO will respond, in writing, within 10 business days.

If SMHO denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal SMHO's decision.

If SMHO denies a request for an accommodation because it is not reasonable, SMHO will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the PBRA program and without imposing an undue financial and administrative burden.

If SMHO believes that the parties have failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, SMHO will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal SMHO's decision.

1-H. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS [24 CFR 8.6]

HUD regulations require SMHO to take reasonable steps to ensure that persons with disabilities related to hearing and vision have reasonable access to SMHO's programs and services [24 CFR 8.6].

SMHO Hearing/Vision Accessibility Policy

At the initial point of contact with each applicant, SMHO shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

Chapter 2
THE APPLICATION PROCESS

2-A. MARKETING

SMHO will market available units in accordance with the HUD-approved Affirmative Fair Housing Marketing Plan (Form HUD-935.2A) in order to reach those who are least likely to apply and to attract a broad cross-section of the eligible population without regard to race, color, religion, sex, disability, familial status, gender identity, or national origin.

2-B. APPLYING FOR ASSISTANCE [24 CFR 880.603(a); HUD Handbook 4350.3, REV-1, CHG-4, Section 4-14]

Any family that wishes to reside at the property must apply for admission to the program. Applications must be signed by both SMHO and the applicant. HUD permits SMHO to determine the format and content of the application, as well as how such applications will be made available to interested families and how applications will be accepted by SMHO. However, SMHO must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the application.

SMHO Applying for Assistance Policy

Depending upon the length of time between the date of application and the availability of housing, SMHO may use a one- or two-step application process.

A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and the amount of rent the family will pay.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, SMHO initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list on a pre-application form. The family will be required to provide all of the information necessary to establish family eligibility and the amount of rent the family will pay when selected from the waiting list.

Families may obtain application forms from SMHO's office during normal business hours, the applications may be printed from SMHO's website,

Completed applications must be returned to SMHO by mail, electronically, or submitted in person during normal business hours. Applications must be filled out completely in order to be accepted by SMHO for processing. Incomplete applications will not be accepted.

Applications must be mailed in and postmarked by the established deadline. The address it should be mailed to is: 5745 S Bannock St Littleton Colorado 80120

Completed applications will be dated, time-stamped upon receipt, and referred to the appropriate SMHO office where resident selection and assignment is processed.

Individuals who need assistance in completing their application may contact SMHO to make special arrangements to complete their application. If the applicant is visually impaired, or has limited English proficiency (LEP), all notices will be made available in a format understandable by the applicant. These applications must also be mailed in.

All adult applicants will be given the opportunity to complete Form HUD-92006, Supplement to Application for Federally Assisted Housing, at the time of application and annually at recertification.

2-C. ACCESSIBILITY OF THE APPLICATION PROCESS

SMHO must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the standard SMHO application process.

SMHO must provide reasonable accommodation as needed for persons with disabilities to make the application process fully accessible. The facility where applications are accepted and the application process must be fully accessible, or SMHO must provide an alternate approach that provides equal access to the program.

Chapter 3
WAITING LIST PROCEDURES

3-A. PLACEMENT ON THE WAITING LIST

SMHO must review each completed application received and make a preliminary assessment of the family's eligibility. Areas to be reviewed include requirements for income, household size/composition, student status, special status requirements such as age or disability status if needed, and criminal history. Applicants for whom the waiting list is open must be placed on the waiting list unless SMHO determines the family is ineligible.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. When the family is selected from the waiting list, SMHO will verify any preferences claimed, if applicable, and determine eligibility and suitability for admission to the program.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list.

SMHO Ineligible for Placement on the Waiting List Policy

If SMHO determines from the information provided that a family is ineligible, the family will not be placed on the waiting list. When a family is determined to be ineligible, SMHO will send written notification of the ineligibility determination within 10 business days of receipt of the completed application.

The written notice will specify the reasons for ineligibility and will inform the family of its right to respond to the owner in writing or request a meeting within 14 days to dispute the rejection. The notice will state that applicants who are persons with disabilities have the right to request a reasonable accommodation.

SMHO Eligible for Placement on the Waiting List PolicySMHO will place eligible applicants on the waitlist, placement will be determined by any applicable preferences and date and time of application.

3-B. PREFERENCES [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-6; 24 CFR 5.655(c); Notice H 2013-21]

SMHOs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that SMHO will use, if any. SMHO is permitted, but not required to, establish local preferences as long as they are subordinate to any program-specific preferences. Preferences do not guarantee admission. SMHO must inform all applicants about any available preferences and give all applicants the opportunity to show they qualify for available preferences. While HUD rules currently include four types of preferences, Section 8 properties may only implement owner-adopted preferences or state and local preferences. HUD approval is required for any state, local, or residency preferences. Owners may implement owner-adopted preferences outside of those cited in the regulations, such as a preference for homeless families [Notice H 2013-21]. If a homeless preference is adopted, it must be included in this TSP, which must then be submitted to HUD for approval.

<u>SMHO Preferences Policy</u>

Applicants will be placed on the waiting list according to SMHO preferences and the date and time of their complete application is received by SMHO.

SMHO will offer the following preferences:

- 1st Preference
    - Elderly (62 years old or older) Head of Household/Spouse
    - A family which includes an individual with a disability/handicap
        - “Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment.”
- 2ND Preference
    - Date and Time

3-C. INCOME TARGETING REQUIREMENT [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-25]

HUD requires PHAs with Section 8 units to ensure that during a fiscal year at least 40 percent of the dwelling units assisted under the contract that become available, together with initial certification of in-place families (with the exception of in-place residents at the time of a RAD conversion), be extremely low-income (ELI) families. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher [FR notice 6/25/14]. To ensure this requirement is met, SMHO may skip non-ELI families on the waiting list in order to select an ELI family.

Current households in properties converting to PBRA under RAD are not subject to income targeting provisions at the time of conversion.

SMHO Income Targeting Policy

SMHO will monitor progress in meeting the ELI requirement throughout the fiscal year. ELI families will be selected ahead of other eligible families on an as-needed basis to ensure that the income targeting requirement is met.

3-D. OPENING AND CLOSING THE WAITING LIST

Should the wait for one or more bedroom size become excessive (exceeding 12 months), SMHO can, at their discretion, close the waiting list and no longer accept applications.

SMHO Opening and Closing the Waiting List Policy

Should the wait for one or more bedroom size become excessive (exceeding 12 months), SMHO can, at their discretion, close the waiting list and no longer accept applications.

When the waiting list is closed, SMHO will make the public aware of the waiting list closing through the advertising and notification procedures outlined in the HUD-approved Affirmative Fair Housing Marketing Plan (AFHMP), and will state the reasons for closing the waiting list. Should SMHO close the list, SMHO will refuse to take additional applications.

When SMHO reopens the waiting list for one or more bedroom sizes, it will again notify the public in the manner outlined in the AFHMP. This notification will be extensive and will state how, when, and where to apply for an apartment and how applications will be added to the waiting list.

3-E. UPDATING THE WAITING LIST [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-18]

Whenever a change is made in the waiting list, an action is taken, or an activity specific to an applicant occurs, a notation must be made on the waiting list.

SMHO Updating the Waiting List Policy

At the time of initial application, SMHO will advise families in writing that they are responsible for notifying SMHO in writing when their circumstances, mailing address, phone numbers, or other means of contact change.

SMHO will require applicants to update their contact and preference information annually by mailing all applicants an annual update letter. Applicants will be given a deadline for returning the annual update form in person or by mail (USPS). If no written update is received by the designated due date, SMHO will remove the applicant from the waiting list.

Any time contact is made, an action is taken, or any activity occurs that is specific to an application, a notation will be made on the waiting list.

3-F. SELECTION FROM THE WAITING LIST

Waiting lists will be divided into sub-lists based upon unit size, unit type, and accessibility features needed. By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application, higher preference status, or preceding lottery number. Further, all selections from the waiting list will be made considering income targeting requirements.

SMHO Waiting List Selection Policy

Families will be selected from the waiting list based on preference. Among applicants with the same preference, families will be selected on a first come, first served basis according to date and time their complete application was received by SMHO.

3-G. APPLICANT INTERVIEW [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-24]

When an appropriate unit will be available in the near future, SMHO must interview the applicant family to obtain current information about the family's circumstances. All information listed in Chapter 4 of the HUD Handbook 4350.3 must be discussed.

SMHO Applicant Interview Policy

As applicants approach the top of the waiting list based on preference scoring, they will be contacted by first class mail to schedule an interview to complete their applicant file and determine eligibility. Applicants who fail to attend their scheduled interview or fail to reply to the letter will be sent a second letter. Applicants who fail to respond will have their applications removed from the waiting list, subject to reasonable accommodation for persons with disabilities.

Chapter 4
PROJECT ELIGIBILITY

Program eligibility determines whether applicants are eligible for assistance, while project eligibility establishes whether applicants are eligible to reside in the specific project to which they have applied. Project eligibility may be effected by:

- Whether some or all of the units in the project are designated for specific family types
- Project-specific occupancy standards

4-A. PROJECT-SPECIFIC REQUIREMENTS [HUD Handbook 4350.3, REV-1, CHG-4, Chapter 3, Section 2]

SMHO is required to define if the property is designated for a special population, such as elderly or disabled.

<u>SMHO Project Eligibility Policy</u>

Amity Plaza and Alyson Court are designated elderly/disabled.

4-B. INCOME ELIGIBILITY [24 CFR 5.653; HUD Handbook 4350.3, REV-1, CHG-4, Section 3-6, Figure 3-3]

Income Limits

HUD is required by law to establish income limits that determine the income eligibility of applicants for HUD's assisted housing programs, including the PBRA program. The income limits are published annually and are based on HUD estimates of the median incomes for families of different sizes in a particular area or county. Income limits are determined by HUD program type.

Types of Low-Income Families

Low-income family. A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

Very low-income family. A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Using Income Limits for Eligibility

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income eligible, the household's annual income does not exceed applicable program income limits, a copy of which will be available upon request.

RAD Requirements [Notice H 2019-09]

Pursuant to RAD statute, at conversion, current households are not subject to rescreening. Consequently, current households will be grandfathered for conditions that occurred prior to conversion, but will be subject to any ongoing eligibility requirements for actions that occur after conversion.

4-C. OCCUPANCY STANDARDS [HUD Handbook 4350.3, REV-1, CHG-4, Section 3-23]

In selecting a family to occupy a particular unit, SMHO may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 5.655(b)(4)]. HUD does not specify the number of persons who may live in units of various sizes. Although SMHO does determine the size of unit the family qualifies for under the occupancy standards, SMHO does not determine who shares a bedroom/sleeping room. Occupancy standards will be applied in a manner consistent with fair housing requirements. Applicants will be housed in a unit size appropriate for their household.

In accordance with HUD Handbook 4350.3, REV-1, CHG 4, household members include, but are not limited to the following:

- All full-time family members
- All anticipated children, defined as the following:
    - Children expected to be born to a pregnant woman
    - Children in the process of being adopted by an adult family member
    - Children whose custody is being obtained
    - Foster children who will reside in the unit
    - Children who are temporarily in a foster home who will return to the family
    - Children in joint custody arrangements who are present in the household 50 percent or more of the time
- Children who are away at school and who live at home during recesses
- Live-in aides
- Foster adults living in the unit

SMHO Occupancy Standards Policy

SMHO will reference the following standards in determining the appropriate unit bedroom size for a family:

Number of Bedrooms	Number of Persons	
	Minimum	Maximum
0 BR	1	1
1 BR	1	2
2 BR	2	4
3 BR	3	6
4 BR	4	8
5 BR	5	10
6 BR	6	12

The family may only be on the waiting list for one bedroom size at any property. For example, if the family qualifies for both a one- and a two-bedroom waiting list, the family may not be on both lists. Once the family selects a bedroom size, they may not switch to a different bedroom size waiting list unless they experience a qualifying event such as birth, adoption, or court-awarded custody of a child.

RAD Requirements [Notice H 2017-03, REV-3]

If at the time of conversion, an eligible family assisted under the HAP contract is occupying a unit that is larger than appropriate because of the family's composition, the family will be permitted to continue to occupy the unit until an appropriate-sized unit becomes available in the project. When an appropriate-sized unit becomes available, the family living in the under-occupied unit must move to the appropriate-sized unit within 30 days.

Chapter 5
PROGRAM ELIGIBILITY

SMHO is responsible for ensuring that every individual and family admitted to the program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted. The family must provide any information needed by SMHO to confirm eligibility and determine the level of the family's assistance.

In addition to meeting the requirements listed in this section, in order to be eligible:

- The unit for which the applicant household is applying will be the household's sole place of residence.
- At the time of admission, the applicant may not be receiving rental assistance in another unit unless that assistance will be terminated at the time of admission.

RAD Requirements [Notice H 2017-03, REV-3]

Pursuant to RAD statute, at conversion, current households are not subject to rescreening. Consequently, current households will be grandfathered for conditions that occurred prior to conversion, but will be subject to any ongoing eligibility requirements for actions that occur after conversion.

5-A. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [HUD Handbook 4350.3, REV-1, CHG-4, Section 3-12; 24 CFR 5, Subpart E]

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with SMHO's Limited English Proficiency (LEP) Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen, or an ineligible noncitizen, and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously assisted occupancy [24 CFR 5.508(g)(5)].

Declaration [24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals, and eligible noncitizens, the declaration must be signed personally by the head, spouse, cohead, and any other family member 18 years of age or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit SMHO to request additional documentation of their status, such as a birth certificate or U.S. passport.

SMHO Citizenship Declaration Policy

Family members who declare citizenship or national status will be required to provide documentation of citizenship status such as a birth certificate or a U.S. passport.

Eligible Immigrants

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

For family members age 62 or older who claim to be eligible immigrants, proof of age is required. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, SMHO must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

SMHO will follow all USCIS protocols for verification of eligible immigration status.

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. SMHO is not required to verify a family member’s ineligible status and is not required to report an individual’s unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

5-B. SOCIAL SECURITY NUMBERS [24 CFR 5.216; Notice H 2010-08]

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

While most individuals will be able to provide a Social Security card, if the applicant or tenant cannot produce a Social Security card for any non-exempt member, they may provide one or more of the following alternative documents:

- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual
- Driver's license with Social Security number
- Earning statements on payroll stubs
- Form 1099
- SSA benefit award letter
- Retirement benefit letter
- Life insurance policy
- Court records

SMHO may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, or illegible, or if the document appears to be forged.

If an applicant family includes a child under six years of age who joined the household within the six months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if SMHO determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

When a resident requests to add a new household member who is at least six years of age, or who is under the age of six and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. SMHO may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of six and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if SMHO determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period SMHO is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

Social security numbers must be verified only once during continuously assisted occupancy.

Once the individual's verification status is classified as "verified," SMHO may remove and destroy copies of documentation accepted as evidence of Social Security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

SMHO Social Security Numbers Policy

Once an individual's status is classified as "verified" in HUD's EIV system, SMHO will not remove copies of documentation accepted as evidence of Social Security numbers.

5-C. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612; FR Notice 4/10/06; FR Notice 9/21/16; HUD Handbook 4350.3, REV-1, CHG-4, Section 3-13]

Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR 5.612 established restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving Section 8 assistance as of November 30, 2005, the student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive Section 8 assistance. If, however, a student in these circumstances is determined independent from his or her parents, based on the Department of Education's definition of an independent student, the income of the student's parents will not be considered in determining the student's eligibility.

The law does not apply to students who reside with parents who are applying to receive Section 8 assistance. It is limited to students who are seeking assistance on their own, separately from their parents.

If a student is applying for assistance on his/her own, apart from his/her parents, SMHO must determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, SMHO must ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from his/her parents or the student's parents are income eligible for the program, and (3) the "family" with which the student is applying is collectively eligible for the program.

5-D. FAMILY CONSENT TO RELEASE OF INFORMATION [HUD Handbook 4350.3, REV-1, CHG-4, Section 5-12]

The family must supply any information that SMHO or HUD determines is necessary to the administration of the program and must consent to SMHO verification of that information.

The head of household, cohead, spouse, and all adult household members 18 years of age or older in each applicant household must sign the required Consent to the Release of Information Forms HUD-9887 and 9887-A prior to receiving assistance and annually thereafter.

> <u>SMHO Consent to Release Information Policy</u>
>
> Household members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Forms HUD-9887 and 9887A within seven days of turning 18 years of age.

All adult members must also sign all SMHO-created individual verification forms. If any family member who is required to sign a consent form fails to do so, SMHO may deny admission to applicants or may terminate the assistance of tenants.

Chapter 6
SCREENING CRITERIA

Screening is the determination that an otherwise eligible household has the ability to pay rent on time and meet the requirements of the lease. SMHO is required to establish written screening criteria to prohibit admission of certain individuals and are permitted to establish additional written screening criteria to determine whether applicants will be suitable tenants.

Live-in aides are screened using the same requirements listed for applicants, with the exception of any criteria involving credit or ability to pay rent.

The cost of screening must not be charged to applicants.

RAD Requirements [Notice H 2017-03, REV-3]

As stated in Chapter 5, pursuant to RAD statute, at conversion, current households are not subject to rescreening provisions. Current households will be grandfathered for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.

6-A. REQUIRED DENIAL OF ADMISSION [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-7; 24 CFR Part 5, Subpart I]

HUD requires SMHO to deny assistance in the following cases:

- Any member of the household has been evicted from federally assisted housing in the last three years for drug-related criminal activity. HUD permits but does not require SMHO to admit an otherwise-eligible family if the household member has completed an SMHO-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household).

  <u>SMHO Denial of Admission Policy</u>

  SMHO will admit an otherwise-eligible family who was evicted from federally assisted housing within the past three years for drug-related criminal activity, if SMHO is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by SMHO, or the person who committed the crime is no longer living in the household.

- SMHO determines that any household member is determined to be currently engaged in the illegal use a controlled substance (e.g., marijuana). A controlled substance is defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

  <u>SMHO Policy</u>

  Currently engaged in is defined as any use of illegal drugs during the previous six months.

- SMHO has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

    SMHO Policy

    In determining reasonable cause, SMHO will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. A record of arrests will not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity. SMHO will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

    SMHO Policy

    At the time of application processing, SMHO will screen all applicants and household members for state sex offender registration in all states where the applicant and members of the applicant's household have resided using the Dru Sjodin National Sex Offender Database (http://www.nsopw.gov).

    If it is determined that a household member is subject to a state lifetime sex offender registration requirement, the household will be denied, or assistance will be terminated, unless the ineligible household member is removed from the household. For applicant households, the ineligible household member must be removed from the application, or the application will be denied.

    SMHO will screen all household members for sex offender registration at the time of each resident's annual recertification and will screen all adults 18 and older for criminal history at admission and as needed. Should there be any evidence that any member of the applicant/resident household is subject to a state lifetime sex offender registration program or that any prior records have been falsified or not properly disclosed, or that a criminal history is discovered that violates the above policies in effect at the time of the annual recertification, the resident's lease may be immediately terminated or the family will be given the opportunity to remove the offender from the household.

    In the cases listed above, proof that the ineligible member has been removed from the household must be provided to management. This would include (1) executing a new lease without the eligible household member, or (2) established utility account at another address, or (3) verification of a change in address from the U. S. Postal Service for the ineligible member.

6-B. ASSET LIMITATION [24 CFR 5.618]

There are two circumstances under which a family is ineligible to receive assistance based on asset ownership.

First, assistance may not be provided to any family if the family's net assets exceed $100,000 (adjusted annually by HUD).

Second, the family has real property (as defined under state law in which the property is located) that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property; and
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

SMHO Asset Limitation Policy
SMHO has adopted a policy of limited enforcement of asset limitation for all residents. At interim, if a resident's assets exceed $100,000, they will have six months to cure the noncompliance. If the noncompliance is not cured within the time allowed, the resident's residency will be terminated and they will be required to move. However, any new applicant with more than $100,000 in assets will be denied.

SMHO Real Property Policy
SMHO will determine if the resident's ownership in real property meets any of the exceptions outlined by HUD. Unless the real property is specifically excluded from net family assets as described in 24 CFR 5.603, it will be included in net family assets. If the value of that real property brings the net family assets above $100,000 (as adjusted for inflation), the family is out of compliance with the asset limitation.

6-C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

SMHO is responsible for screening family behavior and suitability for tenancy.

<u>SMHO Policy</u>

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five years, the family will be denied admission:

Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug

Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Criminal activity that may threaten the health, safety, or welfare of other tenants

Criminal activity that may threaten the health or safety of SMHO staff, contractors, subcontractors, or agents.

Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past five years. A conviction for such activity will be given more weight than an arrest or an eviction. A record of arrest will not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

SMHO will deny admission to an applicant family if SMHO determines that the family:

Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past five years

Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five years which may adversely affect the health, safety, or welfare of other tenants

Has a pattern of eviction from housing or termination from residential programs within the past five years (considering relevant circumstances)

Owes rent or other amounts to this or any other PHA in connection with any assisted housing program

Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition, or rent

Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program

Has engaged in or threatened violent or abusive behavior toward SMHO personnel

Abusive or violent behavior towards SMHO personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

6-D. CONSIDERATION OF CIRCUMSTANCES

HUD authorizes SMHO to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated.

In the event SMHO receives unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). In a manner consistent with its policies, SMHO may give consideration to factors that might indicate a reasonable probability of favorable future conduct.

<u>SMHO Policy</u>

SMHO will consider the following facts and circumstances prior to making its decision:

The seriousness of the case, especially with respect to how it would affect other residents' safety or property

The effects that denial of admission may have on other members of the family who were not involved in the action or failure to act

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or a victim of domestic violence, dating violence, sexual assault, or stalking

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future

While a record of arrests will not be used as the basis for denial, an arrest may, however, trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, SMHO may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. SMHO may also consider:

Any statements made by witnesses or the applicant not included in the police report

Whether criminal charges were filed

Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity

Evidence of criminal conduct, if it indicates a demonstrable risk to safety or property

Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs

In the case of drug or alcohol abuse, SMHO will consider whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.

SMHO will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Further, SMHO acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under SMHO's policies.

While SMHO is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, or stalking, the applicant may inform SMHO in accordance with Chapter 8 of this TSP that their status as a victim is directly related to the grounds for the denial. SMHO will request that the applicant provide enough information to SMHO to allow SMHO to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

Removal of a Family Member's Name from the Application

SMHO Policy

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit.

After admission to the program, the family must present evidence of the former family member's current address upon SMHO request.

Reasonable Accommodation

SMHO Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, SMHO will determine whether the behavior is related to the disability. If so, upon the family's request, SMHO will determine whether alternative measures are appropriate as a reasonable accommodation. SMHO will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission.

6-E. CREDIT HISTORY

SMHO Policy

In order for a credit report to be considered acceptable, the credit report may show minor, moderate, or limited credit problems. A lack of a credit history will not automatically result in an application being denied. SMHO will examine applicant's credit history for the past five years.

SMHO will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

6-F. RENTAL HISTORY

SMHO Policy

In order to determine the suitability of applicants, SMHO will examine applicant history for the past five years.

Any one of the following by any household member listed on the application may result in rejection of the application:

Any history that the applicant has moved out of a residence owing a balance

Any eviction from a previous residence in the last five years, including but not limited to eviction from federally assisted housing for drug-related criminal activity

Four or more late payments of rent within a 12-month period from a current or previous residence

Any one report that the applicant, or his or her household members or guests, were destructive to the unit or common areas at a current or previous residence

Any one report that the applicant has or had poor housekeeping habits from a current or previous residence

Any one report that the applicant caused or was involved in disturbances at a current or previous residence

Any one report that the applicant did not abide by the rules and regulations at a current or previous residence

SMHO may also consider utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit, and whether the applicant can get utilities turned on in his or her name. (Use of this inquiry will be reserved for applicants applying for units where there are tenant-paid utilities.)

If an applicant has no rental payment history, SMHO will check court records of eviction actions and other financial judgments, and credit reports. A lack of rental history will not disqualify someone from becoming a resident, but a poor rental history may.

Applicants with no rental payment history will also be asked to provide SMHO with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available. The applicant will also be required to complete a checklist documenting their ability to meet financial obligations.

SMHO will conduct housekeeping inspections/home visits.

6-G. EXISTING TENANT SEARCH

As part of the application review process, HUD requires that SMHO use the EIV system to determine if the applicant or any member of the applicant household is currently receiving HUD assistance. The Existing Tenant Search will indicate if an applicant or any member of the household is currently receiving subsidy at another community. This report will be printed and maintained in the application file in accordance with HUD's recordkeeping requirements.

SMHO Policy

If the EIV Existing Tenant Search reveals that the applicant or a member of the applicant's household is currently receiving HUD rental assistance at another residence, SMHO must follow up first with the resident to discuss the details of their circumstances, and then with the respective O/A or PHA to confirm the individual's program participation status prior to admission.

SMHO will also attempt to coordinate move-out and move-in dates with the resident and the respective O/A or PHA at the other location.

In addition, applicants will be verbally notified that rental assistance will not be provided for the new unit until the day after assistance stops in the current residence, as identified in TRACS.

Prior to move-in, the applicant will be required to submit to SMHO a move-out form, signed and dated by the previous landlord.

6-H. MISREPRESENTATION OF INFORMATION

An application will be rejected if during the course of processing it becomes evident that an applicant or any applicant household member has falsified or otherwise misrepresented any facts about his or her current situation, history, or behavior in a manner that would affect eligibility or applicant selection criteria qualifications, including preferences, income, assets, allowances, or rent. This provision shall not be applied to minor and unintentional mistakes that produce no benefit to the applicant.

Chapter 7

UNIT TRANSFER POLICY

7-A. TRANSFER REQUESTS

SMHO is required to develop written unit transfer policies in the TSP that include transfer waiting lists, acceptable reasons for transfers, procedures for filling vacancies, and whether unit transfers take priority over applicants from the property waiting list.

SMHO's transfer policy must be reasonable, must ensure that families are not discriminated against based on race, color, religion, sex, national origin, age, familial status, and disability, and must be applied consistently.

<u>SMHO Policy</u>

Unless otherwise required, resident transfers to like units will only be considered as a reasonable accommodation. Residents requesting a transfer to another unit will be required to submit a written request for transfer.

In case of a reasonable accommodation transfer, SMHO will encourage the resident to make the request in writing using a reasonable accommodation request form. However, SMHO will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

SMHO will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family, such as documentation of domestic violence, dating violence, sexual assault, or stalking.

SMHO will respond within 10 business days of the submission of the family's request.

The resident will be housed in the next available appropriately sized vacant unit, when they reach the top of the transfer waiting list. The resident understands that this unit will become their permanent residence. Residents placed on the transfer waiting list will receive a unit transfer when the property is at or above 90% occupancy. If the property is below 90% occupancy with a waiting list over 100 people, the resident will receive a unit transfer once the property is at or above 90% occupancy with an available unit, unless in the case of VAWA or emergency transfer. In these circumstances, the unit transfer will occur as indicated in the emergency transfer or VAWA policies. The resident must be in compliance: no outstanding rent payments, no failed housekeeping inspection, no legal demands, and following SMHO house rules within that year of requesting a transfer. Residents cannot request specific units- for example, residents want unit 202 instead of unit 203. Must be in the current unit for 12 months before requesting a unit transfer unless VAWA or emergency transfer.

If the reasonable accommodation for a unit transfer is approved and the resident declines the unit that is offered, they must wait at least 12 months before re-requesting the reasonable accommodation if the same request is made.

7-B. TYPES OF TRANSFERS

<u>SMHO Policy</u>

The following are the only instances in which a transfer will be approved:

Emergency Transfers

Maintenance conditions in the resident's unit, building, or at the site that pose an immediate, verifiable threat to the health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Unit is uninhabitable through no fault of the resident (i.e., fire, flood, tornado, etc.), and emergency transfers under VAWA.

Uninhabitable Unit

If there is no vacant unit available in the case of an uninhabitable unit, the resident will be directed to the Red Cross or other appropriate agencies for temporary housing, then re-housed in their original unit after all repair work has been completed.

If more than one resident is displaced due to a fire, flood, tornado, etc., households will be placed in appropriately sized vacant units in order of initial move-in date. If no vacant units are available, the same procedures will be followed as described above.

VAWA

For a verified incident of domestic violence, dating violence, sexual assault, or stalking. For instances of domestic violence, dating violence, sexual assault, or stalking, the threat may be established through documentation outlined in Chapter 8. In order to request the emergency transfer, the requestor must submit an emergency transfer request form (HUD-5383), although, SMHO may, on a case-by-case basis, waive this requirement and accept a verbal request in order to expedite the transfer process. If SMHO accepts an individual's statement, SMHO will document acceptance of the statement in the individual's file in accordance with Chapter 8 of this TSP.

SMHO will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, or stalking. SMHO will allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available. SMHO defines *immediately available* as a vacant unit that is ready for move-in within a reasonable period of time, not to exceed [30 days].

SMHO has adopted an emergency transfer plan, which is included as Exhibit 8-1 to this plan. These transfers are mandatory.

SMHO-Required Transfers

The types of transfers that may be required by SMHO include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, and transfers for demolition, disposition, revitalization, or rehabilitation.

Transfers required by SMHO are mandatory.

Transfers to Make an Accessible Unit Available

When a non-accessible unit becomes available, SMHO will transfer a family living in an accessible unit that does not require the accessible features to an available unit that is not accessible. SMHO may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

If a resident is required to transfer to make an accessible unit available, the resident has 30 days after they have been notified that an appropriately sized unit is available for them. If they do not move within that time frame, they are required to pay full market rent in their current unit.

Occupancy Standards Transfers

SMHO will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

SMHO may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on SMHO's occupancy standards when SMHO determines there is a need for the transfer.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) will only be required to transfer if it is necessary to comply with the approved exception.

If a resident is required to transfer due to a change in household composition, the resident has 30 days after they have been notified that an appropriately sized unit is available for them. If they do not move within that time frame, they are required to pay full market rent in their current unit.

Transfers for Demolition, Disposition, Revitalization, or Rehabilitation

For households temporarily displaced due to a project involving demolition, disposition, revitalization, or rehabilitation of their current unit, SMHO will comply with all requirements in the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA).

RAD Requirements [Notice H 2017-03, REV-3]

For households displaced as a direct result of SMHO planning or implementing resident moves due to a conversion of a public housing project under RAD, SMHO will comply with all requirements in the RAD Civil Rights – Relocation Notice H 2016-17.

Transfers Requested by Residents

The types of requests for transfers from residents that SMHO will consider are limited to requests for transfers to alleviate a serious or life-threatening medical condition, VAWA transfers, and reasonable accommodation. No other transfer requests will be considered by SMHO.

Should a resident request a unit transfer as a reasonable accommodation, SMHO will pay the cost of the physical move for the resident as long as doing so does not place an undue financial and administrative burden upon SMHO.

7-C. TRANSFER LIST

SMHO Policy

Emergency transfers will not automatically go on the transfer list. Instead emergency transfers will be handled immediately, on a case-by-case basis. If the emergency cannot be resolved by a temporary accommodation, and the resident requires a permanent transfer, the family will be placed at the top of the transfer list.

Transfers will be processed in the following order:

1. Emergency transfers (hazardous maintenance conditions, VAWA)
2. High-priority transfers (verified medical condition, and reasonable accommodation)
3. Transfers to make accessible units available
4. Demolition, renovation, etc.
5. Occupancy standards
6. Other SMHO-required transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

Transfers will take precedence over waiting list admissions. Existing residents approved to receive Section 8 assistance will also be given priority over external applicants when allocating available Section 8 assistance slots.

Chapter 8
THE VIOLENCE AGAINST WOMEN ACT (VAWA)

8-A. OVERVIEW

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

In addition to definitions of key terms used in VAWA, this chapter contains general VAWA requirements and SMHO policies in three areas: notification, documentation, and confidentiality, as well as SMHO's Emergency Transfer Plan required under VAWA 2013.

8-B. DEFINITIONS [24 CFR 5.2003]

As used in VAWA:

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

- Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent

- The term *stalking* means:
    - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

8-C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

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

<u>SMHO Policy</u>

SMHO will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

A copy of form HUD-5380, Notice of Occupancy Rights Under the Violence Against Women Act (Exhibit 8-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation (Exhibit 8-2)

A copy of SMHO's emergency transfer plan (Exhibit 8-3)

A copy of SMHO's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 8-4)

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

Contact information for local victim advocacy groups or service providers

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

SMHO must provide the Notice of Occupancy Rights (HUD-5380) and certification form (HUD-5382) at admission, along with any notice of denial or eviction and during the first 12 months following the effective date of the final rule implementing VAWA 2013 (December 16, 2016).

<u>SMHO Policy</u>

SMHO will provide all applicants with information about VAWA at the time they request an application for housing assistance. SMHO will also include such information in all notices of denial of assistance.

SMHO will provide all tenants with information about VAWA at the time of admission and at annual reexamination. SMHO will also include such information in all termination of assistance and termination of tenancy (eviction) notices.

SMHO is not limited to providing VAWA information at the times specified in the above policy.

SMHO Policy

Whenever SMHO has reason to suspect that providing information about VAWA to a tenant or affiliated individual might place a victim of domestic violence, dating violence, sexual assault, or stalking at risk, it will attempt to deliver the information by hand directly to the victim, or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, SMHO may decide not to send mail regarding VAWA protections to the victim's unit if SMHO believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, SMHO will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

8-D. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

Family Breakup

Except under the following conditions, SMHO has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, SMHO must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, and stalking, see Section 8-E of this plan.)
- If a court determines the disposition of property between members of the assisted family, SMHO is bound by the court's determination of which family members continue to receive assistance.

SMHO Policy

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may submit a new application with a new application date if the waiting list is open.

If a family breaks up into two otherwise eligible families while living on the property, only one of the new families will retain occupancy of the unit.

If a court determines the disposition of property between members of an applicant or resident family, SMHO will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, SMHO will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, SMHO will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, including a family member who was forced to leave a public housing unit as a result of such actual or threatened abuse, and provides documentation in accordance with section 8-E of this TSP; (4) any possible risks to family members as a result of criminal activity; and (5) the recommendations of social service professionals.

8-E. DOCUMENTATION [24 CFR 5.2007]

An O/A presented with a claim for initial or continued assistance based on status as a victim or threatened victim of domestic violence, dating violence, sexual assault, or stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. SMHO may extend this time period at its discretion. However, in the case of conflicting certifications, SMHO may require documentation within 30 days from the date of the request [24 CFR 5.2007(a)].

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

1. A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation)
2. A federal, state, tribal, territorial, or local police report or court record, or an administrative record
3. Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider, an attorney, a mental health professional, or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

SMHO may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [24 CFR 5.2007(b)(2)].

SMHO Policy

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

SMHO may, at its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, SMHO will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by SMHO will be in writing.

Conflicting Documentation [24 CFR 5.2007(b)(2)]

In cases where SMHO receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, SMHO may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). SMHO may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the PHA. SMHO must honor any court orders issued to protect the victim or to address the distribution of property. In cases of conflicting information, SMHO may require an applicant or tenant to submit third-party documentation within 30 calendar days of the date of the request for the third-party documentation.

SMHO Policy

If presented with conflicting certification documents (two or more forms HUD-5382) from members of the same household, SMHO will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(b)(2) and by following any HUD guidance on how such determinations should be made.

If SMHO does not receive third-party documentation within the required timeframe (and any extensions), the PHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial.

The individuals requesting relief under VAWA will have 30 calendar days to submit third-party documentation. SMHO may, at its discretion, extend the deadline for 10 business days. Any extension granted by SMHO will be in writing.

When requesting third-party documents, SMHO will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

Discretion to Require No Formal Documentation [24 CFR 5.2007(b)(1)(iv)]

SMHO has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

> <u>SMHO Policy</u>
>
> If SMHO accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, or stalking, SMHO will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007(a)(2)]

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

8-F. CONFIDENTIALITY [24 CFR 5.2007(c)]

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

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

EXHIBIT 8-1: EMERGENCY TRANSFER PLAN

South Metro Housing Options

Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence,

Sexual Assault, or Stalking

Section 8 Project-Based Rental Assistance Program

Emergency Transfers

SMHO is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),[1] SMHO allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.[2] The ability of SMHO to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether SMHO has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the Section 8 Project-Based Rental Assistance program is in compliance with VAWA.

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[1] Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

[2] Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Eligibility for Emergency Transfers

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer, if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify SMHO's management office and submit a written request for a transfer to any SMHO office. SMHO will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under SMHO's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

Confidentiality

SMHO will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives SMHO written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about SMHO's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfer Timing and Availability

SMHO cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. SMHO will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. SMHO may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.
If SMHO has no safe and available units for which a tenant who needs an emergency transfer is eligible, SMHO will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, SMHO will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Emergency Transfers: PBRA Program

If you are a resident and request an emergency transfer as described in this plan, SMHO will attempt to assist you in moving to a safe unit quickly. SMHO will make exceptions as required to policies restricting moves.

At your request, SMHO will refer you to organizations that may be able to further assist you. You may also request an emergency transfer to the following programs for which you are required to apply for assistance:

- Public housing program
- HCV tenant-based program
- PBV project-based assistance

Emergency transfers will not take priority over waiting list admissions for these types of assistance. At your request, SMHO will refer you to organizations that may be able to further assist you.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at https://ohl.rainn.org/online/.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

Attachment: Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

EXHIBIT 8-2: NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT, FORM HUD-5380

South Metro Housing Options

Notice of Occupancy Rights under the Violence Against Women Act[3]

To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.[4] The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that the project-based rental assistance (PBRA) program is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA."

Protections for Applicants

If you otherwise qualify for assistance under the project-based rental assistance (PBRA) program, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under the project-based rental assistance (PBRA) program, you may not be denied assistance, terminated from participation, or be evicted from your rental

[3] Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

[4] Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the project-based rental assistance (PBRA) program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

Removing the Abuser or Perpetrator from the Household

SMHO may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If SMHO chooses to remove the abuser or perpetrator, SMHO may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, SMHO must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, SMHO must follow Federal, State, and local eviction procedures. In order to divide a lease, SMHO may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, SMHO may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, SMHO may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

1. You are a victim of domestic violence, dating violence, sexual assault, or stalking. If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
2. You expressly request the emergency transfer. Your housing provider may choose to require that you submit a form or may accept another written or oral request.
3. You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

   OR

   You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

SMHO will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

SMHO's emergency transfer plan provides further information on emergency transfers, and SMHO must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

SMHO can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from SMHO must be in writing, and SMHO must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. SMHO may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to SMHO as documentation. It is your choice which of the following to submit if SMHO asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by SMHO with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought

assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.

- Any other statement or evidence that SMHO has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, SMHO does not have to provide you with the protections contained in this notice.

If SMHO receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), SMHO has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, SMHO does not have to provide you with the protections contained in this notice.

Confidentiality

SMHO must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

SMHO must not allow any individual administering assistance or other services on behalf of SMHO (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

SMHO must not enter your information into any shared database or disclose your information to any other entity or individual. SMHO, however, may disclose the information provided if:

- You give written permission to SMHO to release the information on a time limited basis.
- SMHO needs to use the information in an eviction or termination proceeding, such as

to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.

- A law requires SMHO or your landlord to release the information.

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

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, SMHO cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if SMHO can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If SMHO can demonstrate the above, SMHO should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with HUD local field office, 1670 Broadway Denver CO 80202, Phone: 303 672 5440

For Additional Information

You may view a copy of HUD's final VAWA rule at https://portal.hud.gov/hudportal/documents/huddoc?id=5720-F-03VAWAFinRule.pdf.

Additionally, SMHO must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact Jodi Rodriguez, Director of Housing at 303 794 9608.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY).

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

For help regarding sexual assault, you may contact Colorado Coalition Against Sexual Assault 303.839.9999

Victims of stalking seeking help may contact Legal Information Network of Colorado 720 583 2929

Attachment: Certification form HUD-5382

EXHIBIT 8-3: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION	U.S. Department of Housing and Urban Development	OMB Approval No. 2577-0286 Exp. 06/30/2017

Purpose of Form: The Violence Against Women Act ("VAWA") protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

(1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, "professional") from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of "domestic violence," "dating violence," "sexual assault," or "stalking" in HUD's regulations at 24 CFR 5.2003.

(2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or

(3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. Date the written request is received by victim: ____________________

2. Name of victim: ____________________

3. Your name (if different from victim's):____________________

4. Name(s) of other family member(s) listed on the lease:____________________

____

5. Residence of victim: ____________________

6. Name of the accused perpetrator (if known and can be safely disclosed):____________________

____

7. Relationship of the accused perpetrator to the victim:____________________

8. Date(s) and times(s) of incident(s) (if known):____________________

____

10. Location of incident(s):____________________

In your own words, briefly describe the incident(s):

____

____

____

____

____

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature ____________________Signed on (Date) ____________________

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 8-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383

EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING	U.S. Department of Housing and Urban Development	OMB Approval No. 2577-0286 Exp. 06/30/2017

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

The requirements you must meet are:

(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking. If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

(2) You expressly request the emergency transfer. Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

<u>TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER</u>

1. Name of victim requesting an emergency transfer: ____________________________________

2. Your name (if different from victim's)____

3. Name(s) of other family member(s) listed on the lease:___________________________________

____

4. Name(s) of other family member(s) who would transfer with the victim:____________________

____

5. Address of location from which the victim seeks to transfer: _____________________________

6. Address or phone number for contacting the victim:____________________________________

7. Name of the accused perpetrator (if known and can be safely disclosed):____________________

8. Relationship of the accused perpetrator to the victim:__________________________________

9. Date(s), Time(s) and location(s) of incident(s):____

____

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. ____________

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

____

____

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: ____

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature ________________________________Signed on (Date) __________________________

Chapter 9

PROVISIONS REQUIRED UNDER HOTMA

9-A. OVERVIEW

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs. The final rule implementing broad changes to income and assets in Sections 102 and 104 of HOTMA was officially published in the *Federal Register* on February 14, 2023. HUD issued notice H 2023-10, to provide guidance to PHAs on the implementation of the program changes described in the final rule. The notice required that for certain topic areas, PHAs establish policies in the Tenant Selection Plan. This chapter details SMHO's policies in those areas.

9-B. DE MINIMIS ERRORS IN INCOME CALCULATION [24 CFR 5.609(c)(4); Notice H 2023-10]

De minimis errors occur when SMHO's determination of a family's income deviates from the correct income determination by no more than $30 per month in monthly adjusted income (or $360 in annual adjusted income). When SMHO becomes aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error. SMHO must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when SMHO makes de minimis errors in the income determination. Families will not be required to repay SMHO in instances where SMHO miscalculated income resulting in a family being undercharged for rent.

> <u>SMHO Policy</u>
>
> The SMHO will repay any family the amount that the family was overcharged retroactive to the effective date of the action the error was made, regardless of the dollar amount associated with the error, because of the SMHO's error, including de minimis errors in income determination. The payment will be made by check directly to the resident via postal service if it is $500 or more. If less than $500, the payment will be applied to the resident's ledger in the form of a credit.
>
> However, when the resident overpaid because the resident failed to report changes in income in a timely manner, a retroactive rent decrease will not be applied prior to the effective date of the family's most recent previous certification.

9-C. HARDSHIP EXEMPTIONS FOR HEALTH AND MEDICAL CARE AND REASONABLE ATTENDENT CARE AND AUXILLIARY APPARATUS EXPENSES [24 CFR 5.611(c); Notice H 2023-10]

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses.

- Phased-in Relief
    - The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024.

- General Relief

  The second category is for families that can demonstrate:

  - Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
  - The family's financial hardship is a result of a change in circumstances (as defined in SMHO policy) that would not otherwise trigger an interim recertification. SMHO defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim recert in accordance with SMHO policies.

SMHO Phased-in Relief Policy

SMHO Policy

SMHO will not continue the phased-in relief for families who move and are treated as a new admission at the property. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

SMHO General Relief Policy

SMHO Health and Medical Hardship Exemption Policy

To qualify for a medical hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) and that the family's financial hardship is a result of a change in circumstances. SMHO defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim recert in accordance with SMHO policies.

Examples of circumstances constituting a financial hardship may include the following situations:

The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

Other circumstances as determined by SMHO.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, SMHO will document the family's file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

SMHO Health and Medical Hardship Notification of Determination Policy

SMHO will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the family qualifies for an exemption, SMHO will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

SMHO Health and Medical Hardship 90-Day Extension Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. SMHO will extend relief for an additional 90 days if the family demonstrates to the SMHO's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. SMHO will require updated verification based on the family's current circumstances. SMHO will grant only one additional 90-day extension based on eligibility of the family. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, SMHO may terminate the hardship exemption if it determines that the family no longer qualifies for the exemption.

9-D. CHILDCARE EXPENSE HARDSHIP EXEMPTION [24 CFR 5.611(d) and Notice H 2023-10]

A family whose eligibility for the childcare expense deduction is ending may request a financial hardship exemption to continue receiving the deduction.

SMHO Childcare Expense Hardship Exemption Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. SMHO defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the childcare expense deduction and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the childcare expense is still necessary even though the family member is no longer employed or furthering their education. SMHO will consider qualification under this criteria on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, SMHO will document the family's file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

SMHO Childcare Hardship Notification of Determination Policy

SMHO will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the family qualifies for an exemption, SMHO will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

SMHO Childcare Hardship 90-Day Extension Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. SMHO will extend relief for an additional 90 days if the family demonstrates to the SMHO's satisfaction that the family continues to qualify for the hardship exemption. SMHO will require updated verification based on the family's current circumstances. SMHO will grant only one additional 90-day extension based on eligibility of the family. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, SMHO may terminate the hardship exemption if it determines that the family no longer qualifies for the exemption.

9-E. SELF-CERTIFICATION OF CERTAIN ASSETS

Net Family Assets [24 CFR 5.603]

SMHO Net Family Assets Certification Policy

For families with net assets totaling $50,000 or less, SMHO will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration. SMHO reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, SMHO will use the current balance as reflected on the most recent bank statement.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, SMHO will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]

SMHO Policy Real Property Ownership Policy

SMHO will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. SMHO reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, SMHO will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, SMHO will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

9-F. INTERIM RECERTIFICATIONS

Interim Decreases [24 CFR 982.516(c)(2) and Notice H 2023-10]

SMHO Interim Decreases Policy

SMHO will conduct an interim recertification any time the family's adjusted income has decreased by 10% or more.

Interim Increases [24 CFR 982.516(c)(3) and Notice H 2023-10]

SMHO Interim Increases Policy

When a family reports an increase in their earned income between annual recertifications, SMHO will not conduct an interim recertification, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family's last annual recertification.

SMHO will process an interim recertification for any increases in unearned income of 10 percent or more in adjusted income.

SMHO will not perform an interim recertification when a family reports an increase in income (whether earned or unearned income) within three months of their annual recertification effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases.

SMHO Family Reporting Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report all changes in income within 10 business days of the date the change takes effect. The family may notify SMHO either orally or in writing. If the family provides oral notice, SMHO may also require the family to submit the changes in writing.

Within 10 business days of the family reporting the change, SMHO will determine whether the change will require an interim recertification.

> If the change will not result in an interim recertification, SMHO will note the information in the tenant file but will not conduct an interim recertification. SMHO will send the family written notification within 10 business days of making this determination informing the family that the SMHO will not conduct an interim recertification.
>
> If the change will result in an interim recertification, SMHO will determine the documentation the family will be required to submit based on the type of change reported. SMHO will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from SMHO. This time frame may be extended for good cause with SMHO approval. SMHO will accept required documentation by mail, email, fax, or in person. SMHO will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim recertification. However, if SMHO determines that an interview is warranted, the family may be required to attend.

SMHO Timely and Untimely Reporting Policy

In general, when the family fails to report a change in income, family composition, or other circumstances affecting adjusted income timely, and the change would lead to a rent decrease, SMHO will apply the decrease the first of the month following completion of the interim recertification.

However, SMHO will apply the results of the interim recertification retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to SMHO management operations. SMHO will decide to apply decreases retroactively on a case-by-case basis.

When SMHO applies the results of interim decreases retroactively, SMHO will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with SMHO policies.

SMHO will also clearly communicate the effect of the retroactive adjustment to the owner.

9-G. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice H 2023-10]

SMHO Safe Harbor Policy

SMHO will not accept other programs' determinations of income for any new admission, annual recertification, or interim recertification.

9-H. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice H 2023-10]

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income.

SMHO Streamline Income Determinations Policy

SMHO does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income; therefore, it will use a streamlined income determinations where applicable.

Regardless of the percent of a family's unadjusted income from fixed income sources:

- SMHO will streamline the annual recertification process by applying the verified COLA/inflationary adjustment factor to fixed-income sources.
- The family will be required to sign a self-certification stating that their sources of fixed income have not changed from the previous year.
- SMHO will document in the family's file how the determination that a source of income was fixed was made.
- If the family's sources of fixed income have changed from the previous year, SMHO will obtain third-party verification of any new sources of fixed income.
- All other income will be verified using third-party verification as applicable.

In the following circumstances, regardless of the percentage of income received from fixed sources, SMHO will obtain third-party verification, as applicable:

- Of all assets when net family assets exceed $50,000;
- Of all deductions and allowances from annual income;
- If a family member with a fixed source of income is added;
- If verification of the COLA or rate of interest is not available;
- During move-in and at least once every three years thereafter.