



**Revision Fiscal Year 2023
Admissions and Continued Occupancy Policy
Summary of Proposed Changes
Public Housing- Over Income (HOTMA)**

On February 14, 2023, HUD enacted Section 103 of the Housing Opportunity Through Modernization Act (HOTMA) regarding income limits for the Public Housing program. PHAs are required to implement updates to agency plans for this Section within (120) days of enactment. The following revisions to SPHA’s Public Housing Admissions and Continued Occupancy Policy (ACOP) are proposed to be effective immediately upon board approval. A public hearing will be held regarding these changes on Thursday, June 22, 2023, at 9:00AM at 2001 Gandy Blvd., St. Petersburg, FL 33702. Additional notice will be issued closer to the hearing date.

ACOP Reference	Current	Proposed
Chapter 10 Terminations, Section D	<p>REMOVE</p> <p>D. OVER INCOME FAMILIES INELIGIBLE FOR CONTINUED OCCUPANCY</p> <p>The new language in section 16(a)(5) of the 1937 Act sets the over income limit at 120 percent of the AMI for Public Housing. However, HUD can adjust the over income limit if the Secretary determines that it is necessary due to prevailing levels of construction costs or unusually high or low family incomes, vacancy rates, or rental costs.</p> <p>The VLI limit was selected because it is calculated for every FMR area and, in certain areas, factors in several adjustments to better align income limits with program requirements. Since VLI is preliminarily calculated as 50 percent of the estimated AMI for the family, in most cases, multiplying it by 2.4, would result in a figure matching 120 percent.</p> <p>The final over income limit should then be compared to the family’s adjusted income and as with the existing ranges of income eligibility, the new over income limits will also be tiered by family size. HUD’s income limits were developed by HUD’s Office of Policy Development and Research and are updated annually. Information about HUD’s income limits and HUD’s methodology for adjusting income limits as part of the income limit calculation can be found at</p>	

<https://www.huduser.gov/portal/datasets/il.html>.

~~Effective Date of Over-Income Limits and Integration into the Admissions and Continued Occupancy Policies (ACOP)~~

~~ACOP.~~ SPHA must update their Admissions and Continued Occupancy Policies (ACOP) to implement these changes. Such policies must include the imposition of an over-income limit in the program, clear descriptions of all instances of when the two-year timeframe begins, and the notification requirements put forth by section 103 of HOTMA.

~~Updates.~~ Going forward, SPHA must also update the over-income limits in their ACOPs no later than 60 days after HUD publishes new income limits each year.

~~Timing.~~ It should be noted that SPHA has completed the process for amending their ACOP before implementing the over-income policy. Interim and annual reexaminations that take place after completion of the policy amendment must apply the over-income limit. Therefore, any family that is deemed over-income because of an interim and/or annual reexamination that takes place on the earlier of the date the ACOP and/or PHA Plan is amended or March 24, 2019 will be subject to the appropriate over-income limit.

~~Documentation, Notification, and Tracking for Over-Income Family~~

~~Documentation.~~ Once SPHA has completed updates to its ACOP and, if necessary, the SPHA Plan, and the SPHA discovers through an annual reexamination or an interim reexamination that a family's income exceeds the applicable over-income limit, the SPHA must document that the family exceeds the threshold and make a note in the tenant file to compare it with the family's income a year later. The form HUD-50058 actions that would trigger the two-year grace period are: '2 - Annual Reexamination' and '3 - Interim Reexamination.' PHAs are required to begin tracking these actions once a family's income exceeds the applicable over-income limit.

~~Written Notifications/Tracking 2-Year Grace~~

Periods. If one year after the initial over income finding by the SPHA, the family's income continues to exceed the over income limit, the SPHA must provide written notification to the family. This notification must inform the family that their income has exceeded the over income limit for one year, and if the family's income continues to exceed the over income limit for the next 12 consecutive months, the family will be subject to either a higher rent or termination based on the SPHA's policies. If the initial over income determination was made during an interim reexamination, the SPHA must conduct a second interim income reexamination on that date one year later. However, if the SPHA discovers through an annual or interim reexamination that a previously over income family has income that is now below the over income limit, the family is no longer subject to these provisions. A previously over income family would be entitled to a new two year grace period if the family's income once again exceeds the over income limit.

SPHA must ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other disabilities. The SPHA must ensure effective communication using appropriate auxiliary aids and services, such as interpreters, transcription services, brailled materials, large print, and accessible electronic communications, in accordance with Section 504 and ADA requirements. 24 C.F.R. § 8.6 and § 8.28; 28 CFR part 35, Subpart

This includes the availability, free of charge, of sign language or other types of interpretation. For persons with vision impairments, upon request, this may include materials in braille or on tape.

Terminations and Higher Rent Payments. Twelve months after the second consecutive over income finding, if the family is still over income, the family is subject to termination or higher rental payments. HUD will provide additional information and guidelines for SPHA to set alternative rents for over income families that the SPHA has allowed to remain in public housing, and any other guidance regarding this provision in a forthcoming notice. Families not permitted to stay by the SPHA must have their tenancy terminated no later than six months after the second over income finding by the SPHA.

	<p>SPHA will terminate the tenancy after the 2 year period for over income families; however, the SPHA may waive the termination and allow the family to remain and pay the higher rent established by HUD as a reasonable accommodation for a disabled family or for a family with a disabled member, or if the family presents documentation of a hardship condition that would allow them to remain.</p>	
<p>Chapter 17 Terminations Section E</p>	<p>DOES NOT EXIST</p>	<p>INSERT</p> <p><u>E. OVER INCOME FAMILIES [24 CFR 960.507; FR Notice 7/26/18; Notice PIH 2019-11; FR Notice 2/14/23]</u></p> <p><u>In the public housing program, an <i>over-income family</i> is defined as a family whose income exceeds the over-income limit for 24 consecutive months. When this occurs, the PHA must either:</u></p> <ul style="list-style-type: none"> • <u>Terminate the family’s tenancy within six months of the PHA’s final notification of the end of the 24-month grace period; or</u> • <u>Within 60 days of the PHA’s final notification of the end of the 24-month grace period or the next lease renewal (whichever is sooner), have the family execute a new lease that is consistent with 24 CFR 960.509 and charge the family a monthly rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds.</u> <p><u>The PHA must establish a continued occupancy policy for over-income families in the ACOP indicating which of the above will occur.</u></p> <p><u>SPHA Policy</u></p> <p><u>For families whose income exceeds the over-income limit for 24 consecutive months, the SPHA will not terminate the family’s tenancy and will charge the family the alternative non-public housing rent, as well as require the family to sign a new non-public housing lease in accordance with the continued occupancy policies below.</u></p> <p><u>Over-Income Limit [Notice PIH 2019-11]</u></p>

The PHA must publish over-income limits in their ACOP and update them no later than 60 days after HUD publishes new income limits each year. The over-income limit is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size.

SPHA Policy

The SPHA will rely on the following over-income limits. These numbers will be updated within 60 days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted.

Family Size	Over-income Limit
1	\$73,080
2	\$83,520
3	\$93,960
4	\$104,280
5	\$112,680
6	\$121,080
7	\$129,360
8	\$137,760

For families larger than eight persons, the over-income limit will be calculated by multiplying the applicable very low-income limit by 2.4.

Decreases in Income [24 CFR 960.507(c)(4)]

If, at any time during the consecutive 24-month period following the initial over-income determination, the PHA determines that the family's income is below the over-income limit, the PHA's over-income policies no longer apply to the family. If the PHA later determines that the family's income exceeds the over-income limit at a subsequent annual or interim reexamination, the family is entitled to a new 24 consecutive month period and new notices under this section.

SPHA Policy

If, at any time during the 24-month period following the initial over-income determination, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with PHA policy in Chapter 9.

If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the recertification. The PHA will notify the family in writing within 10 business days of the determination that over-income policies no longer apply to them.

Initial Notice of Over-Income Status [24 CFR 960.507(c)(1)]

If the PHA determines the family has exceeded the over-income limit during an annual or interim reexamination, the PHA must provide written notice to the family of the over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit.

SPHA Policy

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, within 10 business days the PHA will notify the family in writing of the determination and that if the family continues to be over-income for 24 consecutive months, the family will be subject to the SPHA's over-income policies. The notice will state that the family may request a hearing if the family disputes the SPHA's determination in accordance with PHA policies in Chapter 14.

Second Notice of Over-Income Status [24 CFR 960.507(c)(2)]

The PHA must conduct an income examination 12 months after the initial over-income determination, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination. If the PHA determines the family continues to exceed the over-income limit for 12 consecutive months, the PHA must

provide written notification of this 12-month over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 12 consecutive months and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. Additionally, if applicable under PHA policy, the notice must include an estimate (based on current data) of the alternative non-public housing rent for the family's unit. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit.

SPHA Policy

If a family's income exceeds the applicable over-income limit after 12 consecutive months, within 10 business days, the SPHA will notify the family in writing of the determination and that if the family continues to be over-income for 24 consecutive months, the family will be subject to the SPHA's over-income policies. The notice will provide an estimate of the alternative non-public housing rent applicable to the family at the close of the 24 consecutive month period. The notice will also state that the family may request a hearing if the family disputes the SPHA's determination in accordance with SPHA policies in Chapter 14.

Final Notice of Over-Income Status [24 CFR 960.507(c)(3) and 960.509]

Unless the PHA determined the family's income fell below the over-income limit since the second over-income determination, the PHA must conduct an income examination 24 months after the initial over income determination. If the family continues to be over-income based on this determination, the PHA must provide written notification of this determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 24 consecutive months and that the PHA will follow its continued occupancy policies for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the

PHA's determination that the family has exceeded the over-income limit.

SPHA Policy

If a family's income exceeds the applicable over-income limit for 24 consecutive months, the SPHA will notify the family in writing of the determination within 10 business days of the date of the determination. The notice will state that the family will be charged the alternative non-public housing rent in accordance with SPHA continued occupancy policies and HUD regulations and provide the family's new rent amount.

The notice will also include a new non-public housing lease and inform the family that the lease must be executed by the family and the SPHA no later than 60 days from the date of the notice or at the next lease renewal, whichever is sooner. The family will continue to be a public housing program participant until the family executes the new non-public housing lease. The notice will also state that failure to execute the lease within this time period stated in the notice will result in termination of tenancy no more than six months after the date of the notice. The SPHA will permit an over-income family to execute a lease beyond this time period, but before termination of tenancy, if the over-income family pays the SPHA the total difference between the alternative non-public housing rent and their public housing rent dating back to the point in time that the over-income family was required to execute the new lease.

Once the family signs the new non-public housing lease, the family will no longer be a public housing participant family. The family will no longer be subject to income examinations, are precluded from participating in the resident council, and cannot participate in any programs that are only for public housing or low-income families.

The non-public housing over-income lease will contain all required

provisions listed at 24 CFR 960.509. The initial term of the lease will be for one year. Upon expiration of the initial lease term, the lease will not renew automatically, and subsequent leases will state renewal terms. At any time, the SPHA may terminate tenancy in accordance with 24 CFR 960.509(b)(11) and in accordance with state and local law.

Upon execution of the lease, the tenant will be required pay the amount of monthly tenant rent (known as the alternative non-public housing rent) determined by the SPHA in accordance with HUD regulations. The SPHA will comply with state and local law in giving the tenant written notice stating any changes in the amount of tenant rent. Charges assessed under the lease will be due in accordance with state and local law.