

NEW FINAL RULE

Refinement of Income and Rent
Determination Requirements in Public
and Assisted Housing Programs



- Proposed rule published June 19, 2007
- Federal Register published January 27, 2009 – Final Rule – All requirements to be effective March 30, 2009 except EIV
- Proposed Rule - Delay of Effective Date issued February 11, 2009
- Federal Register issued March 27, 2009 as a Final Rule – Delay of Effective Date
- Provides HUD additional time to review comments from February 11, 2009 Federal Register and to consider whether additional regulations or changes are necessary



What does the Final Rule Implement?

1. HUD delays the effective date of the January 27, 2009 final rule until September 30, 2009
2. Mandatory use of HUD's Enterprise Verification System
3. Requirement for all family members to disclose a valid Social Security Number
4. Requirement to verify Citizen/Non Citizen status
5. Annual Income – Actual or past actual income



- **Mandatory Use of EIV**

This final rule announces the requirement for PHA's and multifamily housing O/A's to use the Enterprise Income Verification system when verifying the employment and income of residents at the time of all certifications

- **Social Security Number Requirements**

Current requirement - All household members, 6 years of age or older, are required to provide valid and accurate Social Security Numbers or sign a certification stating that no Social Security Number has been assigned.

NEW REQUIREMENT – Part 5.216 has been amended to reflect the following:

a. Complete and accurate SSN for ALL members of the household regardless of their age

- 1) Applicants
- 2) Current household



APPLICANTS

1. Applicants will be required to disclose and provide verification of the SSN for all members of their household
2. Applicant retains their place on the waiting list if they cannot provide SSN's for all family members
3. At admission, all members *MUST* disclose and provide documentation of their SSN before household is permitted to move-in and participate in the program

CURRENT PARTICIPANTS

1. If eligibility was before effective date of final rule (9/30/09) each household member *MUST* disclose and provide verification of their SSN at their next interim or regularly scheduled recertification where this has not occurred
 2. New household members – Includes a child or children: New members *MUST* provide at the time of request to be added to the household disclosure and verification of their SSN
- O/A's should begin notifying applicants and residents who have not disclosed their SSN, or the SSN of a child under the age of 6, or have certified they do not have a SSN of this upcoming revision to the HUD regulation and change current policy in Tenant Selection Plan



- **Required Documentation**
 1. Valid social security card
 2. Driver's license with SSN
 3. ID card issued by Federal, State, or local agency, medical insurance provider, employer or trade union
 4. Earnings statement
 5. Bank statement
 6. Form 1099
 7. See Appendix 3 of 4350.3 Rev-1 Chg. 2

- **Penalties for Failing to Disclose and Verify SSN** – Part 5.218
 1. Denial of eligibility for applicants
 2. Termination of assistance or termination of tenancy



- **Submission of Evidence of Citizenship or Eligible Immigration Status** – Part 5.508

A. For U. S. citizens or U. S. Nationals – Obtain verification of the declaration for all household members even for those 62 and over. **MUST** require one of the following documents:

1. U. S. passport
2. U. S. birth certificate
3. Employment authorization card
4. Temporary Resident card
5. Other documentation as provided by Section 214

B. For noncitizens – Adequate evidence consists of:

1. A signed declaration of eligible immigration status; and
2. One of the Section 214 documents listed in 5.508(b)(1) and referred to in 5.510

Add these changes to your property's Tenant Selection Plan



Annual Income – Part 5.609

(i) Actual income being received (projected forward for a 12-month period); or

(ii) Past actual income received or earned within the last 12 months of the determination date when:

a) Family reports little or no income

b) Unable to determine annual income due to fluctuations in income such as: seasonal – O/A may average past actual income received or earned within the last 12 months to calculate annual income.

- This applies to Part 92, HOME Program

Part 92.203 (d)(1) has been revised to read: Calculate income on the actual income being received, projected forward for 12-month period...



HUD MODEL LEASES AND VAWA

- With the release of HUD Handbook 4350.3 Rev-1 Change 2 it has been one of the most confusing areas for most O/A's (Change 2 was issued June 29, 2007)
- Most O/A's - Already using the model lease – Chapter 6
 - a) No changes could be made to the model lease unless previously approved by HUD or the CA
 - b) If property was not using the model lease, it had to be used at the residents next annual recertification and provided to the resident at least 60 days prior to the end of the lease term. O/A's must include a letter notifying the resident that they can either accept the new lease with modifications if applicable or move but a response is due within 30 days (Par. 6-12).
- Handbook gives samples of leases and identifies the appropriate lease for HUD's subsidized programs (Par. 6-5)
- Appendix 4-E provides instructions on how to complete the blank spaces
- Starting in late July 2007
 - a) All new residents should have signed the 6/2007 lease
 - b) All existing residents should have received a 60 day notice and should have been required to sign the modified lease after the current lease expires but no later than the next annual recertification
- May 19, 2008 - HUD assigns HUD form number, OMB approval number and OMB expiration date on model leases – RHIP Listserv #102 Version of lease on HUDCLIPS is 12/2007



- O/A's must use these Model leases immediately for new admissions and for existing residents beginning with their annual recertifications effective January 1, 2009
- Because the forms have OMB numbers and OMB expiration dates they cannot be modified
- O/As who have lease modifications will need to develop lease addendums to incorporate the lease modifications
- O/As who have had lease modifications approved by HUD or the Contract Administrator do not have to have the lease modifications included on the lease addendums approved again prior to implementation
- If the O/A has to obtain approval from HUD or the Contract Administrator to incorporate additional lease modifications then the O/A must provide notice to the residents in accordance with Chapter 6, Paragraph 6-12 D after obtaining approval from HUD or the CA
- This change to the model lease has caused the most confusion due to numerous complaints and industry organizations writing to HUD Washington
- HUD issued Model Lease Q & A's in June 2008 – MF RHIP website
- RHIP website – Important for all to join the listserv – (Voluntary)
<http://www.hud.gov/offices/hsg/mfh/rhiip/mfhrhiip.cfm>



- September 18, 2008 HUD issues Memo from Acting Deputy Assistant Secretary for MF Housing Programs to various HUD offices. Through RHIP Listserv #119 on September 22, 2008 NHH and anyone else who subscribes received this memo. Memo notifies of a change and clarification to the following:
 1. HUD received permission from OMB to remove the OMB approval number and OMB expiration date from the HUD model leases generated by TRACS software or other software programs developed or purchased by O/A's
 - a) This eliminates the need to re-issue leases when there is a change in the OMB expiration date
 2. Leases downloaded off HUDCLIPS must continue to include the OMB approval number and expiration date
- HUD issues memo from Lanier Hylton, Director, Office of Program Systems and Willie Spearman, Director, Office of Housing Assistance and Grant Administration to various HUD offices – Notification through RHIP Listserv #123 dated October 9, 2008. Memo informs:
 1. OMB provided emergency approval of various forms for OMB expiration date including HUD's Model lease – Not required for those leases provided through TRACS software
 2. Revised Model Lease Q & A
 3. Developed a grid called "What Lease Do I Use"
 4. Software Vendor/In-house Developer HUD Forms Requirement Matrix – describes software display requirements for HUD forms



What Lease Do I Use?				
Lease Date	Tenant Status	Owner is using TRACS Software or Software purchased by Owner/Agent	Owner is using Lease with modifications approved by HUD/CA prior to the release of the OMB approved leases	Owner is using the HUDCLIPS Lease* (see definition below)
9/2002 Lease Section 202 PRAC Lease Section 811 PRAC Lease NOTE: No page changes to leases in 6/2007	New Tenant	<ul style="list-style-type: none"> May continue to use if software has not been updated to the 12/2007 OMB approved lease until the carrier of software updates by the developer or revisions to the lease language provided by HUD. 	<ul style="list-style-type: none"> May continue to use until such time as HUD issues modifications to the language in the leases. 	Not Applicable
	Existing Tenant	<ul style="list-style-type: none"> Stays on lease currently signed by tenant unless tenant is required to sign a new lease (e.g. moving to a new unit, in which case tenant would sign the lease currently being used for new tenants) or HUD issues modifications to the lease. 	<ul style="list-style-type: none"> May continue to use until such time as HUD issues modifications to the language in the leases. 	Not Applicable
6/2005 Lease with 6/2007 page changes Model Lease for Subsidized Programs Section 202 or Section 802 PRAC Lease	New Tenant	<ul style="list-style-type: none"> May continue to use if software has not been updated to the 12/2007 OMB approved lease until the carrier of software updates by the developer or revisions to the lease language provided by HUD. 	<ul style="list-style-type: none"> May continue to use until such time as HUD issues modifications to the language in the leases. 	Not Applicable
	Existing Tenant	<ul style="list-style-type: none"> Stays on lease currently signed by tenant unless tenant is required to sign a new lease (e.g. moving to a new unit, in which case tenant would sign the lease currently being used for new tenants) or HUD issues modifications to the lease. 	<ul style="list-style-type: none"> May continue to use until such time as HUD issues modifications to the language in the leases. 	Not Applicable
12/2007 OMB Approved Lease	New Tenant	<ul style="list-style-type: none"> Use if software has been updated to the 12/2007 OMB approved lease. <p>NOTES:</p> <ol style="list-style-type: none"> Lease does not need to contain the OMB approval number or OMB expiration date but must include the Public Reporting Burden language, HUD form number and form approval date. Modifications to the OMB approved lease must be included as a lease addendum. Modifications previously approved by HUD/CA do not have to be a provided again when moved to an addendum. However, new modifications must be approved by HUD/CA. 	<ul style="list-style-type: none"> Can use if HUD/CA approved modifications are put in a separate lease addendum. 	Must use the 12/2007 OMB approved lease
	Existing Tenant	<ul style="list-style-type: none"> Stays on lease currently signed by tenant unless tenant is required to sign a new lease (e.g. moving to a new unit, in which case tenant would sign the lease currently being used for new tenants) or HUD issues modifications to the lease. 	<ul style="list-style-type: none"> Stays on lease currently signed by tenant unless tenant is required to sign a new lease (e.g. moving to a new unit, in which case tenant would sign the lease currently being used for new tenants) or HUD issues modifications to the lease. 	<ul style="list-style-type: none"> Stays on lease currently signed by tenant unless tenant is required to sign a new lease (e.g. moving to a new unit, in which case tenant would sign the lease currently being used for new tenants) or HUD issues modifications to the lease.

* The HUDCLIPS Lease is the OMB approved lease that includes the Public Reporting Burden language, OMB approval number, OMB expiration date, HUD form number and form approval date. It is downloaded and printed directly from the HUDCLIPS website at www.hud.gov/hudclips. Information is filed in online, when available, or by hand or typewriter.



Attachment 3
Software Vendor/In-house Developer HUD Forms Requirement Matrix

HUD Form Number	New/Revised HUD Form	HUD Form Number Approval Date Public Reporting Burden Display Required	OMB Approval Number Display Required	OMB Expiration Date Display Required
HUD-50059	Yes	Yes	Yes	No
HUD-50059-A	Yes	Yes	Yes	No
HUD-52670	No	Yes	Yes	No
HUD-52670-A	Yes	Yes	Yes	No
Part 1				
HUD-52670-A Part 2	No	Yes	Yes	No
HUD-52670-A Part 3	Yes	Yes	Yes	No
HUD-52670-A Part 4	Yes	Yes	Yes	No
HUD-52670-A Part 5	Yes	Yes	Yes	No
HUD-91066	Yes	Yes	Yes	No
HUD-91067	Yes	Yes	Yes	No
HUD-9887	No	Yes	No	No
HUD-9897-A	No	Yes	No	No
HUD-90100	No	Yes	Yes	No
HUD-90101	No	Yes	Yes	No
HUD-90102	No	Yes	Yes	No
HUD-90103	No	Yes	Yes	No
HUD-90104	No	Yes	Yes	No
HUD-90105-A	No	Yes	No	No
HUD-90105-B	No	Yes	No	No
HUD-90105-C	No	Yes	No	No
HUD-90105-D	No	Yes	No	No
HUD-90106	No	Yes	Yes	No
HUD-27971-H	No	Yes	Yes	No
HUD-52671-A	No	Yes	Yes	No
HUD-52671-B	No	Yes	Yes	No
HUD-52671-C	No	Yes	Yes	No
HUD-52671-D	No	Yes	Yes	No



- The model leases to be used are:
 - a) 90105-a Model Lease for Subsidized Programs
Elderly Projects – Add Pet Addendum and Pet Rules as Attachment
 - b) 90105-b Model Lease for Section 202/8 or Section 202 PAC
 - c) Exhibit 6-2 of the 4350.3 Required RHS 515 Lease Provisions
- Leases have been translated into 12 languages – English version is the official lease

<http://www.hud.gov/offices/adm/hudclips/forms/hud9.cfm>

- If using Software Vendor/In-house Developer lease
 - a) Must have the HUD form number and
 - b) Approval Date
 - c) Public Burden Display
- If using lease from HUDCLIPS
 - a) HUD form number, approval date
 - b) OMB approval number
 - c) OMB expiration date
 - d) Public Burden Display
- Check HUDCLIPS often for latest version of the various documents you use
- HUD has updated several forms and provided us with alternative language documents

<http://www.hud.gov/offices/adm/hudclips/>



VIOLENCE AGAINST WOMEN ACT (VAWA)

- VAWA provides legal protections to victims of domestic violence, dating violence or stalking
- These protections prohibit O/A's from denying assistance and from evicting or terminating assistance from individuals being assisted under Section 8 IF the asserted grounds for such action are an instance of domestic or dating violence or stalking
- October 2008 HUD issues Notice H 08-07
 - a) Implements the Violence Against Women and Justice Department Reauthorization Act of 2005 for MF project-based Section 8 Housing Assistance Payments Program
 - b) Provides guidance to O/A's on how to implement VAWA
 - c) Transmits the Certification of Domestic Violence, Dating Violence or Stalking, Form HUD-91066 – O/A's MAY request a resident to certify that he/she is a victim of domestic or dating violence or stalking



- d) Transmits the HUD approved Lease Addendum, Form 91067 – to be used with the applicable HUD model lease. This addendum revises the lease to:
 - i. Reflect the statutory requirements of the VAWA that are related to the Section 8 assistance programs

- Lease Addendum – When to use it?
 1. **New admissions** - Immediately along w/appropriate HUD model lease
 2. **Existing residents** – O/A's should begin to notify residents of the modification to the lease. **How?**
 - a) Follow the guidance in Chapter 6 of the 4350.3 Rev-1 Change 2
 - b) Forward to each resident a copy of the addendum that revises the existing lease.
 - c) Include a letter clearly stating that the resident can either accept the modification or move but that a response is due within 30 days.

- Remember – Modifications to the lease are at the end of the lease term

- If resident is in the first year of their lease, 60 days prior to the end of the term is when you would provide b & c above



- Certification and Confidentiality
 - a) O/A's responding to an incident of actual or threatened domestic violence that could potentially have an impact on a resident's continued participation may request in writing that the individual complete and sign and submit w/in 14 business days of the request, the HUD approved certification form (HUD-91066). O/A's may extend this time period.
 - b) In lieu of the certification form, O/A's may accept
 - i. A federal, state, tribal, territorial, or local police record or court record
 - ii. Documentation signed and attested to by a professional from whom the victim has sought assistance
 - c) Retain all documentation relating to the individual's domestic violence in a separate file that is kept in a separate secure location from other resident files
- Resident Selection Plans and/or House Rules must be updated to incorporate the VAWA policies and protections

