

## **Exhibit 3-4**

### **Enterprise Income Verification (EIV) System**

#### **1. Mandated Use of EIV System**

##### **HUD Regulation 24 CFR 5.233**

Mandated use of HUD's Enterprise Income Verification (EIV) System.

(a) Programs subject to this section and requirements.

(1) The requirements of this section apply to entities administering assistance under the:

- (i) Public Housing program under 24 CFR part 960;
- (ii) Section 8 Housing Choice Voucher (HCV) program under 24 CFR part 982;
- (iii) Moderate Rehabilitation program under 24 CFR part 882;
- (iv) Project-based Voucher program under 24 CFR part 983;
- (v) Project-based Section 8 programs under 24 CFR parts 880, 881, 883, 884, 886, and 891;
- (vii) Section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013);

(2) Processing entities must use HUD's EIV system in its entirety:

- (i) As a third party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income, in accordance with §5.236, and administrative guidance issued by HUD; and
- (ii) To reduce administrative and subsidy payment errors in accordance with HUD administrative guidance.

(b) Penalties for noncompliance. Failure to use the EIV system in its entirety may result in the imposition of sanctions and/or the assessment of disallowed costs associated with any resulting incorrect subsidy or tenant rent calculations, or both.

##### **Public and Indian Housing Notice 2010-19<sup>1</sup>**

Effective January 31, 2010, all PHAs are required to use the EIV system in its entirety.

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<sup>1</sup> Public and Indian Housing Notice PIH 2010-19 issued May 17, 2010, expires May 31, 2011.

"Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System." Superseded by PIH Notice 2017-12.

### **AHFC Policy**

1. See the Social Security Number Requirement exhibit for the policy on the disclosure and verification of social security numbers.
2. See the Meet Screening Criteria exhibit for the requirement to sign consent forms.

## **1.A EIV Review Requirement**

### **Public and Indian Housing Notice 2017-12<sup>2</sup>**

Paragraph 7. Although EIV cannot be used for verification prior to admission, all PHAs are required to review the EIV Income Report of each family before or during mandatory annual and interim reexaminations of family income and/or composition to reduce tenant under reporting of income and improper subsidy payments.

PHAs also need to obtain an Income Report for each household. The PHA is required to maintain the Income Report in the tenant file along with the form HUD-50058 and other supporting documentation to support income and rent determinations for all interim and mandatory annual reexaminations of family income and composition.

## **1.B File Documentation**

This is the type of file documentation required to demonstrate PHA compliance with mandated use of EIV as a third party source to verify tenant employment and income information.

### **1.B.1. New Admission**

#### **Public and Indian Housing Notice 2017-12**

Paragraph 9. All verifications, regardless of technique, require the PHA to review for multiple subsidy payments. PHAs are required to review the EIV Former Tenant and Existing Tenant Report for any SSA matches involving another PHA or a Multi-family entity and follow-up on any issues identified. The PHA is required to maintain the report and documentation of any follow-up in the tenant file. If the tenant is a new admission to the PHA, and a match is identified at a Multi-family property, the PHA must report the program admission date to the Multi-family property and document the notification in the tenant file.

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<sup>2</sup> Public and Indian Housing Notice PIH 2017-12 issued August 4, 2017, effective until amended, superseded, or rescinded. "Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System." This notice supersedes notice PIH 2010-19.

For each new admission (form HUD-50058 action type 1), the PHA is required to do the following:

- i. Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and
- ii. Print and maintain a copy of the EIV Income Report in the tenant file; and
- iii. Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.

#### **1.B.2. Historical Adjustment**

##### **Public and Indian Housing Notice 2017-12**

Paragraph 13B. For each historical adjustment (form HUD-50058 action type 14), the PHA is required to do the following:

- i. Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and
- ii. Print and maintain a copy of the EIV Income Report in the tenant file; and
- iii. Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.

#### **1.B.3. Interim Examination**

##### **Public and Indian Housing Notice 2017-12**

Paragraph 13C. For each interim reexamination (form HUD-50058 action type 3) of family income and composition, the PHA is required to have the following documentation in the tenant file:

- i. ICN Page when there is no household income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report. (PHAs have the discretion to print the EIV Income report, however, only the ICN page is required.)
- ii. EIV Income Report when there is an income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report.

#### **1.B.4. Annual Examination**

##### **Public and Indian Housing Notice 2017-12**

Paragraph 13D. For each annual reexamination of family income and composition, the PHA is required to have the following documentation in the tenant file:

- i. No Dispute of EIV Information: EIV Income Report, current acceptable tenant-provided documentation, and if necessary (as determined by the PHA), traditional third party verification form(s).
- ii. Disputed EIV Information: EIV Income report, current acceptable tenant-provided documentation, and/or traditional third party verification form(s) for disputed information.

iii. Tenant-reported income not verifiable through EIV system: Current tenant-provided documents, and if necessary (as determined by the PHA), traditional third party verification form(s).

## 1.C EIV Retention

### Public and Indian Housing Notice 2017-12

Paragraph 18. The PHA's record retention policy will determine the length of time the PHA should maintain EIV printouts in a tenant file. PHAs are authorized to maintain the EIV Income Report in the tenant file for the duration of tenancy and no longer than three years from the end of participation (EOP) date. In accordance with revised regulation, 24 CFR §908.101, PHAs are required to maintain at a minimum, the last three years of the form HUD-50058, and supporting documentation for all annual and interim reexaminations of family income. All records are to be maintained for a period of at least three years from the effective date of the action.

## 2. Income Information from SWICAs and Federal Agencies

### HUD Regulation 24 CFR 5.234

Requests for information from SWICAs<sup>3</sup> and Federal agencies; restrictions on use.

(a) Information available from SWICAs and Federal agencies – to whom and what. Income information will generally be obtained through computer matching agreements between HUD and a SWICA or Federal agency, or between a PHA and a SWICA, as described in paragraph (c) of this section. Certification that the applicable assistance applicants and participants have signed appropriate consent forms and have received the necessary Privacy Act notice is required, as follows:

(1) When HUD requests the computer match, the processing entity shall certify to HUD; and

(2) When the PHA requests the computer match, the PHA shall certify to the SWICA.

(b) Restrictions on use of information. The restrictions of 42 U.S.C. 3544(c)(2)(A) apply to the use by HUD or a PHA of income information obtained from a SWICA. The restrictions of 42 U.S.C. 3544(c)(2)(A) and of 26 U.S.C. 6103(l)(7) apply to the use by HUD or a PHA of income information obtained from the IRS or SSA.

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<sup>3</sup> SWICA: State Wage Information Collection Agencies.

(c) Computer matching agreements. Computer matching agreements shall specify the purpose and the legal authority for the match, and shall include a description of the records to be matched, a statement regarding disposition of information generated through the match, a description of the administrative and technical safeguards to be used in protecting the information obtained through the match, a description of the use of records, the restrictions on duplication and redisclosure, a certification, and the amount that will be charged for processing a request.

**AHFC Policy**

AHFC complies with all confidentiality requirements regarding the use of information obtained from computer matching agreements and the HUD Enterprise Income Verification system.

**2.A EIV Official Purposes**

The data in EIV contains personal information on individual tenants which is protected under the Federal Privacy Act. The information in EIV may only be used for limited official purposes, as noted below.

**Public and Indian Housing Notice 2017-12**

Paragraph 21A. Official Purposes Include:

1. PHAs, in connection with the administration of PIH programs, for verifying the employment and income at the time of interim and annual reexaminations.
2. HUD staff for monitoring and oversight of PHA compliance with HUD program requirements.
3. Independent Auditors hired by the PHA or HUD to perform a financial audit for use in determining the PHA's compliance with HUD program requirements, including verifying income and determining the accuracy of the rent and subsidy calculations.

**Restrictions on disclosure requirements for Independent Auditors:**

- (a) May only access EIV income information within family files and only within the offices of the PHA or PHA-hired management agent;
- (b) May not transmit or transport EIV income information in any form;
- (c) May not enter EIV income information on any portable media;
- (d) Must sign non-disclosure oaths that the EIV income information will be used only for the purpose of the audit; and
- (e) May not duplicate EIV income information or re-disclose EIV income information to any user not authorized by 5 U.S.C. 552a (b) of the Privacy Act to have access to the EIV income data.

## 2.B EIV Official Purposes Limitations

### Public and Indian Housing Notice 2017-12

Paragraph 21B. Official Purposes Do NOT Include: sharing the information with governmental or private entities not involved in the reexamination process specifically used for PIH rental assistance programs.

Disclosing the EIV information to other private or public entities for purposes other than determining eligibility and level of assistance for PIH rental assistance programs is prohibited since these entities are not a party to the computer matching agreements with the HHS and SSA. The fact that these entities may find the EIV beneficial for similar eligibility and determination purposes for other low-income housing programs or public benefits, does not permit these entities to use or view information in the EIV system that is covered by the computer matching agreements.

The computer matching agreements are governed by the Privacy Act and the Social Security Act. Specifically, 5 U.S.C. 552a (b) limits disclosure of the data matched between HUD and HHS' National Directory of New Hires (NDNH) database to PHAs, Independent Auditors, the Inspector General (IG) and Attorney General, private owners, management agents, and contract administrators of Multifamily Housing programs.

## 3. Terminations Based on EIV or SWICA Data

### HUD Regulation 24 CFR 5.236

Procedures for termination, denial, suspension, or reduction of assistance based on information obtained from a SWICA or Federal agency.

(a) Termination, denial, suspension, or reduction of assistance. The provisions of 42 U.S.C. 3544(c)(2)(B) and (C)<sup>4</sup> shall govern the termination, denial, suspension, or reduction of benefits for an assistance applicant or participant based on

<sup>4</sup> 42 U.S. Code 3544(c) Access to records; (2) Applicant and participant protections

(B) No Federal, State, or local agency, or public housing agency, or owner responsible for determining eligibility for or level of benefits receiving such information may terminate, deny, suspend, or reduce any benefits of an applicant or participant until such agency or owner has taken appropriate steps to independently verify information relating to –

(i) the amount of the wages, other earnings or income, or unemployment compensation involved,

(ii) whether such applicant or participant actually has (or had) access to such wages, other earnings or income, or benefits for his or her own use, and

(iii) the period or periods when, or with respect to which, the applicant or participant actually received such wages, other earnings or income, or benefits.

(C) Such applicant or participant shall be informed by the agency or owner of the findings made by the agency or owner on the basis of such verified information, and shall be given an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility factors under the program.

income information obtained from a SWICA or a Federal agency. Procedures necessary to comply with these provisions are provided in paragraph (b) of this section.

(b) Procedures for independent verification.

(1) Any determination or redetermination of family income verified in accordance with this paragraph must be carried out in accordance with the requirements and procedures applicable to the individual covered program. Independent verification of information obtained from a SWICA or a Federal agency may be:

- (i) By HUD;
- (ii) In the case of the public housing program, by a PHA; or
- (iii) In the case of any Section 8 program, by a PHA acting as contract administrator under an ACC.

(2) Upon receiving income information from a SWICA or a Federal agency, HUD or, when applicable, the PHA shall compare the information with the information about a family's income that was:

- (i) Provided by the assistance applicant or participant to the PHA; or
- (ii) Obtained by the owner (or mortgagee, as applicable) from the assistance applicant or participant or from his or her employer.

(3) When the income information reveals an employer or other income source that was not disclosed by the assistance applicant or participant, or when the income information differs substantially from the information received from the assistance applicant or participant or from his or her employer:

- (i) HUD or, as applicable or directed by HUD, the PHA shall request the undisclosed employer or other income source to furnish any information necessary to establish an assistance applicant's or participant's eligibility for or level of assistance in a covered program. This information shall be furnished in writing, as directed to:
  - (A) HUD, with respect to programs under parts 221, 235, 236, or 290 of this title;
  - (B) The responsible entity (as defined in §5.100) in the case of the public housing program or any Section 8 program.
  - (C) The owner or mortgagee, as applicable, with respect to the rent supplement, Section 221(d)(3) BMIR, Section 235 homeownership assistance, or Section 236 programs.
- (ii) HUD or the PHA may verify the income information directly with an assistance applicant or participant. Such verification procedures shall not include any disclosure of income information prohibited under paragraph (b)(6) of this section.

(4) HUD and the PHA shall not be required to pursue these verification procedures when the sums of money at issue are too small to raise an inference

of fraud or justify the expense of independent verification and the procedures related to termination, denial, suspension, or reduction of assistance.

(5) Based on the income information received from a SWICA or Federal agency, HUD or the PHA, as appropriate, may inform an owner (or mortgagee) that an assistance applicant's or participant's eligibility for or level of assistance is uncertain and needs to be verified. The owner (or mortgagee) shall then confirm the assistance applicant's or participant's income information by checking the accuracy of the information with the employer or other income source, or directly with the family.

(6) Nondisclosure of Income information. Neither HUD nor the PHA may disclose income information obtained from a SWICA directly to an owner (unless a PHA is the owner). Disclosure of income information obtained from the SSA or IRS is restricted under 26 U.S.C. §6103(l)(7) and 42 U.S.C. 3544.

(c) Opportunity to contest. HUD, the PHA, or the owner (or mortgagee, as applicable) shall promptly notify any assistance applicant or participant in writing of any adverse findings made on the basis of the information verified in accordance with paragraph (b) of this section. The assistance applicant or participant may contest the findings in the same manner as applies to other information and findings relating to eligibility factors under the applicable program. Termination, denial, suspension, or reduction of assistance shall be carried out in accordance with requirements and procedures applicable to the individual covered program, and shall not occur until the expiration of any notice period provided by the statute or regulations governing the program.

#### **AHFC Policy**

1. AHFC shall review any income information received from the HUD EIV system and compare it to information submitted by the family.
2. Discrepancies that total \$2,400 or more per year will be discussed with the family member and independently verified.
3. A family is entitled to dispute an income determination in accordance with Applicant and Participant Grievances in this policy prior to a termination action.

### **3.A Failure to Report or Under Reporting of Income**

#### **Public and Indian Housing Notice 2017-12**

Paragraph 16. In accordance with 24 CFR 5.236(b)(3), PHAs are required to compare the information on the EIV report with the family-reported information.

The PHA is required to determine the retroactive rent as far back as the existence of complete file documentation (form HUD-50058 and supporting documentation) to support such retroactive rent determinations.

### 3.B Tenant Repayment Agreement

#### **Public and Indian Housing Notice 2017-12**

Paragraph 17. Tenants are required to reimburse the PHA if they were charged less rent than required by HUD's rent formula due to the tenant's underreporting or failure to report income. The tenant is required to reimburse the PHA for the difference between the tenant rent that should have been paid and the tenant rent that was charged. This rent underpayment is commonly referred to as retroactive rent. If the tenant refuses to enter into a repayment agreement or fails to make payments on an existing or new repayment agreement, the PHA must terminate the family's tenancy or assistance, or both. HUD does not authorize any PHA-sponsored amnesty or debt forgiveness programs.

### 4. Improper Use of EIV Information

#### **HUD Regulation 24 CFR 5.238**

Criminal and civil penalties. Persons who violate the provisions of 42 U.S.C. 3544 or 26 U.S.C. 6103(l)(7) with respect to the use and disclosure of income information may be subject to civil or criminal penalties under 42 U.S.C. 3544(c)(3), 26 U.S.C. 7213(a), or 18 U.S.C. 1905.

#### **Public and Indian Housing Notice 2017-12**

Paragraph 19. Disclosure of an Individual's EIV Information.

The Federal Privacy Act (5 USC §552a, as amended) prohibits the disclosure of an individual's information to another person without the written consent of such individual. As such, the EIV data of an adult household member may not be shared (or a copy provided or displayed) with another adult household member, unless the individual has provided written consent to disclose such information.

However, the PHA is not prohibited from discussing with the head of household (HOH) and showing the HOH how the household's income and rent were determined based on the total family income reported and verified.

EIV information and any other information obtained by the PHA for the purpose of determining eligibility and level of assistance for a PIH rental assistance program may not be disclosed to third parties for any reason (even for similar verifications under other programs, such as eligibility for low income housing tax credit units, other federal or state assistance programs), unless the tenant has authorized such disclosure in writing.

Paragraph 21C. Penalties for Willful Disclosure or Inspection of EIV Data.

13. Unauthorized Disclosure – felony conviction and fine up to \$5,000 or imprisonment up to five (5) years, as well as civil damages.

21. Unauthorized Inspection – misdemeanor penalty of up to \$1,000 and/or one (1) year imprisonment, as well as civil damages.

## 5. Family Disclosure of Income Information

### HUD Regulation 24 CFR 5.240

#### Family disclosure of income information to the responsible entity and verification.

(a) This section applies to families that reside in dwelling units with assistance under the public housing program, the Section 8 tenant-based assistance programs, or for which project-based assistance is provided under the Section 8, Section 202, or Section 811 program.

(b) The family must promptly furnish to the responsible entity any letter or other notice by HUD to a member of the family that provides information concerning the amount or verification of family income.

(c) The responsible entity must verify the accuracy of the income information received from the family, and change the amount of the total tenant payment, tenant rent or Section 8 housing assistance payment, or terminate assistance, as appropriate, based on such information.

#### AHFC Policy

AHFC will process any notifications from HUD concerning a family's income source or verification in accordance with the regulations and policies stated under 24 CFR 5.236 above.

## 6. Discrepancies

### Public and Indian Housing Notice 2018-24<sup>5</sup>

HUD, via its computer matching program with the SSA, will validate the SSN (along with the individual's name and date of birth) against the SSA's database. EIV will report the status of the identity verification process as Verified, Failed, Pending, Excluded, or Deceased on the household Summary Report.

The PHA is required to retain the EIV Summary Report or Income Report in each family file as confirmation of compliance with the SSN disclosure,

<sup>5</sup> Public and Indian Housing Notice 2018-24 issued November 27, 2018. "Verification of Social Security Numbers (SSNs), Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report." Effective until amended, superseded, or rescinded.

documentation and verification requirements. Electronic retention of these reports is permissible.

**AHFC Policy**

1. AHFC will always attempt to resolve any discrepancies due to family composition or individual family member identity.
2. AHFC will address any discrepancies in income of \$2,400 or more per year.

**7. EIV Training**

**Public and Indian Housing Notice 2017-12**

Paragraph 23. As a condition of initial and continued access to the EIV System, HUD and PHA staff are required to complete Annual Security Awareness training and EIV system training (initial system training) and update (interim system changes) training when offered by HUD Headquarters (HHQ). This training requirement also applies to those individuals who will not access EIV, but will view or handle printed and/or electronic EIV data. Individuals who will view and/or handle printed EIV information are required to complete only annual Security Awareness training (EIV system training is optional for these individuals).

**8. Report Deadlines**

Staff will pull EIV reports and resolve discrepancies within the following deadlines for each examination type.

**8.A New Admission**

**Public and Indian Housing Notice 2017-12**

Paragraph 13A. For each new admission (form HUD-50058 action type 1), the PHA is required to do the following:

- i. Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and
- iii. Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.

**8.B Regular Examination**

Step Extension applications that are approved will be posted as a regular examination. Staff are not required to pull an EIV report for Step Extension applications that are not approved.

**AHFC Policy**

For each regular examination:

1. AHFC will pull the EIV Report prior to the regular examination effective date.
2. Discrepancies must be resolved prior to the examination effective date.

### **8.C Interim or Special Examination**

This section includes Bridge Process examinations. For those circumstances where staff is processing an exception to the original family portion and then posting a return to the family portion:

- Staff is required to pull only the EIV Report for the exception
- Staff is not required to pull an EIV Report for the return to the original family portion
- Staff is not required to pull an EIV Report for Bridge Process Tier 2 reviews that extend an exception

#### **AHFC Policy**

For each interim examination:

1. AHFC will pull the EIV Report prior to the interim examination effective date.
2. Discrepancies must be resolved within 60 days of the EIV Report date.

### **8.D Historical Adjustment**

#### **Public and Indian Housing Notice 2017-12**

Paragraph 13B. For each historical adjustment (form HUD-50058 action type 14), the PHA is required to do the following:

- i. Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and
- iii. Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.

## **9. Retention**

See the Records Retention exhibit for guidance on retention of EIV reports.

### **Numbered Memo**

20-16 Updates to Verification Requirements