



## **NTHDC Owner/Agent State Conference FAQ's**

**Tampa Law Center**

**September 29, 2009**

### **MOR & Occupancy**

1. The questions that have arisen about the Change 3 guidance regarding Foster Children and Foster Adults have been forwarded to HUD for clarification. Until such time as HUD provides clarification, unearned income for Foster Children (under 18) WILL be counted, they will be counted when determining unit size and occupancy standards. However, they are not counted for establishing income limits for the household. Even though the handbook appears to be unclear/have discrepancies between Chapter 3 information against the change made to Figure 5-2....we are following guidance provided in Chapter 3. 3-6 E 3. Determining Family size for Income Limits. When determining family size for establishing income eligibility, the owner must include all persons living in the unit except the following: b. Foster children or foster adults. (See the Glossary for the definition.) 3-23 E 6. Counting family members. In order to determine the size of unit that would be appropriate for a particular family, the owner needs to determine the number of family members. a. The owner must count all full-time members of the family. (4) Foster children who will reside in the unit; (5) Children who are temporarily in a foster home who will return to the family; and 3-23 E General Occupancy Standards g. The owner must count foster adults living in the unit. 5-6A3 3. Dependents. A dependent is a family member who is under 18 years of age, is disabled, or is a full-time student The head of the family, spouse, co-head, foster child, or live-in aide are never dependents. Some income received on behalf of family dependents is counted and some is not. a. Earned income of minors (family members under 18) is not counted. b. Benefits or other unearned income of minors is counted.

**Figure 5-2: Whose Income is Counted?**

<b>Members</b>	<b>Employment Income</b>	<b>Other Income (including income from assets)</b>
Head	Yes	Yes
Spouse	Yes	Yes
Co-head	Yes	Yes
Other adult *(including foster adult)*	Yes	Yes
<b>Dependents</b>		
-Child under 18	No	Yes
Full-time student over 18	See Note	Yes
*Foster child under 18	No	Yes*
<b>Nonmembers</b>		
Live-in aide	No	No

**NOTE:** The earned income of a full-time student 18 years old or older who is a dependent is excluded to the extent that it exceeds \$480.

2. **Q:** Who is subject to VAWA?

**A:** Related excerpts are below:

**SUBJECT:** Implementation of the Violence Against Women and Justice Department Reauthorization Act of 2005 for the Multifamily Project-Based Section 8 Housing Assistance Payments Program

**I. PURPOSE:** The purpose of this Notice is to provide guidance to owners and management agents (O/As) administering one of Multifamily Housing’s project-based Section 8 programs on the implementation of the Violence Against Women Act and Department of Justice Reauthorization Act of 2005, Public Law 109-162, hereafter referred to as VAWA.

This Notice also transmits the HUD-approved Lease Addendum (Form HUD-91067) (Attachment 2) for use with the applicable HUD model lease for the covered project-based Section 8 program. This addendum revises the lease to reflect the statutory requirements of the VAWA that are related to the project-based Section 8 assistance programs.

**II. APPLICABILITY**

This notice is applicable to all O/As participating in the following project-based Section 8 programs under the United States Housing Act of 1937 (42 U.S.C. 1437):

- New Construction
- State Agency Financed
- Substantial Rehabilitation
- Loan Management Set-Aside (LMSA)
- Property Disposition Set-Aside (PDSA)
- Section 202 Projects With Section 8 Assistance (Section 202/8)
- Rural Housing Section 515 Projects With Section 8 Assistance (RHS Section 515/8)

3. **Q:** Are service coordinators allowed access to regular tenant files and do they have to sign the new EIV Rules of Behavior.

**A:** HUD Handbook 4381.5, Chapter 8, 8-4 states that, “A service coordinator links tenants within the project to supportive services or medical services provided by public agencies or private practitioners within the general community. The service coordinator may assess service needs, determine eligibility for public services, and work with the CLC or the OLSC....The service coordinator cannot assist with other administrative work normally associated with the project(s) operating budget.” Service coordinators should have no reason to access the regular tenant files and, therefore, should have no access to regular tenant files without expressed written consent from the tenant. The Rules of Behavior form is to be signed by all persons who do not have access to the EIV system, but are required to use EIV information provided to them by authorized EIV system users for the performance of official HUD business. Since the service coordinators are not allowed to be assigned administrative work associated with the project’s operating budget; the service coordinator would have no need to review EIV information for the tenants in the course of doing their daily duties. Clarification is needed on if a service coordinator was provided written permission from the tenant to review their file if they would need a Rules of Behavior form signed. Until there is an answer, it may be good practice for the sites in this situation to have the service coordinator sign an EIV Rules of Behavior Form to ensure compliance with this requirement.

4. **Q:** What is the correct end date for initial lease terms?

**A:** HUD recently clarified their previous answer to this question with the release of Change 3 to the HUD Handbook 4350.3. HUD Handbook 4350.3, Rev-1, Chg 3, effective 8/1/2009 states in Appendix 4-E, Paragraph 2, “The definition of the initial term of the lease is for twelve calendar months beginning January 1 and ending December 31; or 12 calendar months beginning at any point, e.g., beginning May 15, 2008 and ending May 14, 2009. For localities where the practice is to end the date at the end of the month the initial lease term would be beginning May 15, 2008 and ending May 31, 2009.”

5. **Q:** Is documentation of current EIV CAAF and UAAF approval required to be maintained?

**A:** Yes. The EIV Webcast slides from the EIV Webcast on December 16 and 17, 2008; and the EIV Webcast Questions and Answers updated August 2009 (both are posted on the EIV website) state that the owner/agent must provide for review during MOR’s the Original approved CAAF(s) and UAAF(s) as well as the current approved CAAF(s) and UAAF(s).

### **Special Claims**

6. **Q:** For a Special Claim, what can be submitted in replace of the 50059, if it’s not available?

**A:** the original lease that shows security deposit amount.

7. **Q:** Can an O/A go into RfR and put in a claim for huge damages?

**A:** This would be a case by case issue.