



TACOMA HOUSING AUTHORITY

RESOLUTION 2021-01-27 (2)

Date: January 27, 2021

To: THA Board of Commissioners

From: Michael Mirra
Executive Director

Re: Approval of Revision to THA's Administrative Plan

This resolution would authorize a revision to Tacoma Housing Authority's (THA) Administrative Plan allowing for electronic signatures from clients and others .

Background

All public housing authorities must adopt a written Administrative Plan that establishes local policies for administration of the program in accordance with Housing and Urban Development (HUD) requirements. The Administrative Plan and any revisions of the plan must be formally adopted by THA's Board of Commissioners.

THA is proposing an addition to the Administrative Plan clarifying that electronic completion and electronic signatures are acceptable on all forms and documents except for those where the underlying guidance specifically prohibits this practice. The proposed revision shows **in red** in the attached section of the Administrative Plan.

This revision will allow electronic form completion and scanned documents to verify program information. If at any time THA has reason to believe that documents have been altered or contain fraudulent information, THA may request additional documentation to verify program information.

Staff have researched the governing guidance from HUD and laws and have concluded that this change is permissible. The attached memo outlines that research. THA will use electronic signatures for documents and forms, except in cases when the underlying guidance expressly prohibits electronic signatures. Electronic records and signatures will follow the Electronic Signatures in Global and National Commerce Act (ESIGN, 2000) and the Uniform Electronic Transactions Act (UETA, 1999). Electronic records and signatures carry the same weight and legal effect as traditional paper documents and handwritten signatures. THA will not deny the legal effect or enforceability of a document solely because it is in electronic form. THA will continue to make available paper copies or accept phone applications upon request.

Recommendation

Authorize revisions to THA's Administrative Plan to allow electronic form completion and electronic signatures on all forms and documents except for those where the underlying guidance specifically prohibits this practice as outlined in Resolution 2021-01-27 (2).



TACOMA HOUSING AUTHORITY

RESOLUTION 2021-01-27 (2) **(Approval of Revision to THA's Administrative Plan)**

A **RESOLUTION** of the Board of Commissioners of the Housing Authority of the City of Tacoma

WHEREAS, The purpose of the Administrative Plan is to establish policies for carrying out our programs in a manner consistent with HUD requirements and local goals and objectives contained in THA's Moving to Work plan; and

WHEREAS, Changes to the Administrative plan must be approved by THA Board of Commissioners; now therefore, be it

Resolved by the Board of Commissioners of the Housing Authority of the City of Tacoma, Washington as follows:

THA's Executive Director is authorized to revise THA's Administrative Plan Chapter 7 – Verification, Part I: General Verification Requirements to permit electronic forms and signatures in all cases except when it is expressly prohibited by regulation or associated guidance.

Approved: January 27, 2021



Stanley Rumbaugh, Chair

- **CHAPTER 7 -
VERIFICATION**

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

- **INTRODUCTION**

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the PHA.

- **PART I: GENERAL VERIFICATION REQUIREMENTS**

- **7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]**

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 982.551].

Consent Forms

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

For MTW households, authorization of the HUD 9886 form has been extended from 15 months to 48 months.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with PHA procedures.

• 7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy

HUD authorizes the PHA to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

THA Policy

All Tax Credit Properties will use the Washington State Housing Tax Credit Compliance Procedures Manual for verification hierarchy.

THA will weigh all forms of verification equally. The forms of verification that the PHA will use are:

Up-front Income Verification (UIV) whenever available

Third-party Written Verification

Third-party Oral Verification

Review of Documents

Self-Certification

Each of the verification methods is discussed in subsequent sections below. Exhibit 7-1 at the end of the chapter contains an excerpt from the notice that provides guidance with respect to how each method may be used.

Requirements for Acceptable Documents

THA Policy

Any documents used for verification must be the original (not photocopies) and generally must be dated within **120 calendar days** of the date they are provided to the PHA. The documents must not be damaged, altered or in any way illegible.

The PHA will accept documents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, the PHA would accept the most recent report.

Print-outs from web pages are considered original documents.

The PHA staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

Any family self-certifications must be made in a format acceptable to the PHA and must be signed in the presence of a PHA representative or PHA notary public.

File Documentation

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

THA Policy

The PHA will document, in the family file, the following:

Reported family annual income

Value of assets

Expenses related to deductions from annual income

Other factors influencing the adjusted income or income-based rent determination

When the PHA is unable to obtain 3rd party verification, the PHA will document in the family file the reason that third-party verification was not available and will place a photocopy of any original document(s) in the family file. [24 CFR 960.259(c)(1); VG, p.15]

• **7-I.C. UP-FRONT INCOME VERIFICATION (UIV)**

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the PHA.

THA Policy

The PHA will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:

HUD's EIV system (when it is available to the PHA)

Department of Social and Health Services

The Work Number

Other Sources, as applicable

There may be legitimate differences between the information provided by the family and UIV-generated information. No adverse action can be taken against a family until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

See Chapter 6 for the PHA's policy on the use of UIV/EIV to project annual income.

Use of HUD's Enterprise Income Verification (EIV) System

HUD's EIV system contains data showing earned income, unemployment benefits, Social Security and SSI benefits for participant families. HUD requires the PHA to use the EIV system when available. The following policies will apply when the PHA has access to HUD's EIV system.

The EIV system contains two main components: tenant income data reports and "exceeds threshold" reports.

Tenant Income Data (TID) Reports

The data shown on TID reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

THA Policy

The PHA will obtain TID reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

TID reports will be compared to family-provided information as part of the annual reexamination process. TID reports may be used in the calculation of annual income, as described in Chapter 6.I.C. TID reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between TID reports and family-provided information will be resolved as described in Chapter 6.I.C. and in this chapter.

TID reports will be used in interim reexaminations when it is necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits, and to verify that families claiming zero income are not receiving income from any of these sources.

TID reports will be retained in participant files with the applicable annual or interim reexamination documents.

When the PHA determines through TID reports and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

Income Discrepancy Reports (IDRs)

The IDR is a tool for identifying families who may have concealed or under-reported income. Data in the IDR represents income for past reporting periods and may be between 6 months and 30 months old at the time IDRs are generated.

Families who have not concealed or under-reported income may appear on the IDR in some circumstances, such as loss of a job or addition of new family members.

THA Policy

The PHA will generate and review IDRs on a monthly basis. The IDR threshold percentage will be adjusted as necessary based on the findings in the IDRs.

In reviewing IDRs, the PHA will begin with the largest discrepancies.

When the PHA determines that a participant appearing on the IDR has not concealed or under-reported income, the participant's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, participants appearing on this list will be eliminated from IDR processing until a subsequent interim or annual reexamination has been completed.

When it appears that a family may have concealed or under-reported income, the PHA will request third-party written verification of the income in question.

When the PHA determines through IDR review and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

EIV Identity Verification

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on Social Security number, name, and date of birth.

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

PHAs are required to use EIV's Identity Verification Report on a monthly basis to improve the availability of income information in EIV {Notice 2012-10}

THA Policy

The PHA will identify participants whose identity verification has failed as part of the annual reexamination process.

The PHA will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When the PHA determines that discrepancies exist due to PHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

- **7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION**

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the PHA by the family. If written third-party verification is not available, the PHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

Written Third-Party Verification [Notice PIH 2010-19]

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

PHA Policy

Third-party documents provided by the family must be dated within 60 days of the PHA request date.

If the PHA determines that third-party documents provided by the family are not acceptable, the PHA will explain the reason to the family and request additional documentation.

As verification of earned income, the PHA will require the family to provide the two most current, consecutive pay stubs.

Written Third-Party Verification Form

When upfront verification is not available and the family is unable to provide written third-party documents, the PHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

PHAs may mail, fax, or e-mail third-party written verification form requests to third-party sources.

PHA Policy

The PHA will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the PHA.

Oral Third-Party Verification [Notice PIH 2010-19]

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

PHA Policy

In collecting third-party oral verification, PHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the PHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

When Third-Party Verification is Not Required [Notice PIH 2010-19]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

PHA Policy

If the family cannot provide original documents, the PHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Imputed Assets

HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

PHA Policy

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

Value of Assets and Asset Income [24 CFR 982.516(a)]

For families with net assets totaling \$5,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income. However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

PHA Policy

For families with net assets totaling \$5,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. 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.

The PHA will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.

• **7-I.E. SELF-CERTIFICATION**

When HUD requires third-party verification, self-certification or "tenant declaration," is used as a last resort when the PHA is unable to obtain third-party verification.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total \$5,000 or less and the PHA has adopted a policy to accept self-certification at annual recertification, when applicable
- The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 11)

When the PHA was required to obtain third-party verification but instead relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

PHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the PHA.

The PHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a PHA representative or PHA notary public.

- **7-I.F. ELECTRONIC FORMS COMPLETION AND ELECTRONIC SIGNATURES**

THA will allow electronic form completion and scanned documents to verify program information. If at any time THA has reason to believe that documents have been altered or contain fraudulent information, THA may request additional documentation to verify program information.

THA will use electronic signatures for documents and forms, except in cases when the underlying guidance expressly prohibits electronic signatures. Electronic records and signatures will follow the Electronic Signatures in Global and National Commerce Act (ESIGN, 2000) and the Uniform Electronic Transactions Act (UETA, 1999). Electronic records and signatures carry the same weight and legal effect as traditional paper documents and handwritten signatures. THA will not deny the legal effect or enforceability of a document solely because it is in electronic form. THA will continue to make available paper copies or accept phone applications upon request



TACOMA HOUSING AUTHORITY

DATE: January 13, 2021

TO: Sandy Burgess
Michael Mirra
April Black

FROM: Karen Bunce
Aley Thompson
Adam Ydstie
Ava Pittman
Jennifer Rickey
Katie Escudero

RE: Proposal to amend THA's Administrative Plan for Electronic Forms Completion and Electronic Signatures

PURPOSE:

The COVID -19 Pandemic has caused THA to pivot in ways that we could not have imagined just last year at this time. Prior to March 2020, staff had conducted some scattered research and explored completing forms electronically, including accepting electronic signatures on select documents that require client and tenant signatures. On March 23, 2020, Governor Inslee issued the Stay Home, Stay Healthy order (20-25) in response to the COVID-19 State of Emergency. THA closed our offices, enabled non-client facing staff to work from home, and client facing staff to rotate working remotely. We could no longer meet in-person with clients and tenants, accelerating our need to complete some forms electronically and collect electronic signatures in a more formal and robust manner.

We continue to move to electronic form completion and electronic signatures as guidance has allowed us to and as we are able to implement this practice. However, there have been questions as to the use of electronic completion and electronic signatures as THA's formal written policies have not provided guidance on this practice. We would like to provide clarification in THA's Administrative Plan that electronic completion and electronic signatures are acceptable on all forms and documents except for those where the underlying guidance specifically prohibits this practice.

BACKGROUND:

THA staff from Rental Assistance, Property Management and Policy, Innovation and Evaluation have been discussing a move to electronic forms and electronic signatures for the last two years. Prior to COVID-19, we implemented a limited amount of electronic forms and signatures using FormSite, Airtable and Doc-u-sign after verifying that this was acceptable according to the guidance and regulations that governed those documents.

When THA closed our offices in response to COVID-19, Rental Assistance and other departments wished to move as many documents to electronic form completion and electronic signatures as possible. This included internal authorizations and contract signatures. We could not meet with clients and tenants in person to collect documents and obtain signatures and did not want to handle paper due to speculation that the COVID-19 virus particles may live on surfaces, including paper. This necessitated our need to move up the priority of pursuing electronic forms and signatures. Rental Assistance collected what information they could within their capacity and asked Administrative Services to consider a revision to the Administrative Plan that would allow electronic signatures in all allowable situations. This request aligned with Administrative Services' plans to implement an electronic content management platform in 2021.

THA plans to implement a new Electronic Content Management (ECM) platform for all documents, records and forms in 2021. The first phase of the implementation includes moving Doc-u-sign, Formsite and Airtable to the new platform (Laserfische). We currently use Doc-u-sign, Formsite and Airtable to collect client and tenant information for forms and signatures. It is important that our Administrative Plan support the use of electronic signatures as we move to the new platform. We will continue to collect information on the types of forms and documents that allow electronic completion and signature as part of the ECM implementation project.

We recognize that many clients and tenants still need the ability to complete paper forms and to mail or drop off their packets. This need will not go away. Using electronic forms and electronic signatures will greatly reduce the volume of paperwork, streamline processes, and reduce the risk of exposure for staff and clients. We will continue to quarantine or sanitize mail and wear gloves when handling paper documents.

GUIDANCE:

In March 2019, Rental Assistance verified guidance surrounding the use of digital signatures for eligibility and application documents on U.S. Department of Housing and Urban Development (HUD) documents. John Concannon, Deputy Director, Moving to Work (MTW) Demonstration Program with HUD said *“There’s no HUD prohibition against PHAs accepting electronic signatures, however we advise that THA to seek legal advice from its counsel to ensure that there aren’t any issues under Washington State law. At this time HUD doesn’t have established criteria regarding electronic signatures.”*

THA’s Policy Analyst has also been tracking COVID-19 specific policy changes adopted by our housing authority colleagues, including the use of electronic signatures. While many of our colleagues are accepting electronic signatures and incorporated electronic forms on scattered documents based on their state laws, the Philadelphia Housing Authority (MTW) has specifically addressed electronic records and signatures in their Administrative Plan¹:

“Electronic records and signatures carry the same weight and legal effect as traditional paper documents and handwritten signatures. PHA will not deny the legal effect or enforceability of a document solely because it is in electronic form. (Electronic Signatures in Global and National Commerce Act (ESIGN, 2000) and the Uniform Electronic Transactions Act (UETA, 1999).

PHA will accept scanned documents to verify program information. If at any time, PHA has reason to believe that documents have been altered or contain fraudulent information, PHA may request additional documentation to verify program information.”

In addition to HUD policies, THA is also subject to tax credit guidance and regulations related to document and form completion. On July 20, 2020, the Washington State Housing Finance Commission issued guidance in accordance with the IRS that encouraged Multifamily Ownership and Property Management Stakeholders to implement alternative ways for applicants and residents to fill out and sign paperwork and submit forms. Electronic collection of forms and signatures is allowable.²

¹ Philadelphia Housing Authority Housing Choice Voucher Program Administrative Plan. Chapter 2.8 Electronic Signatures & Scanned Documents.

http://www.pha.phila.gov/media/177438/hcv_administrative_plan_board_approved_02152018.pdf

² Washington State Housing Finance Commission Memorandum July 20, 2020 UPDATES: COVID-19 Pandemic and Affordable Housing Compliance. http://wshfc.org/managers/Other/COVID-19MemoforAMCStakeholders_converted.pdf

Washington State's electronic signature legislation, The Washington Electronic Authentication Act (WEAA) was repealed in July 2019 to help resolve inconsistencies between national guidance on electronic signature authentication and Washington's narrow focus. Washington legislators recognized that e-signatures have become widely adopted without typically requiring the use of state-regulated digital certificates for signer identity. The bill that repealed WEAA expressly inserted the ESIGN Act of 2000 (ESIGN)³ which provides a general rule of validity for electronic records and signatures for transactions in or affecting interstate or foreign commerce.

This guidance and information support THA moving to electronic forms and signatures on documents completed and signed by tenants and clients. The guidance is applicable even after the precautions adopted in response to the COVID-19 pandemic are no longer necessary.

NEXT STEPS:

Proposed Addition to THA's Administrative Plan:

We propose an amendment to THA's Administrative Plan in CHAPTER 7 VERIFICATION, PART I: GENERAL VERIFICATION REQUIREMENTS to permit electronic forms and signatures in all cases except when it is expressly prohibited by regulation or associated guidance.

7-1. F. Electronic Forms Completion and Electronic Signatures

THA will allow electronic form completion and scanned documents to verify program information. If at any time THA has reason to believe that documents have been altered or contain fraudulent information, THA may request additional documentation to verify program information.

THA will use electronic signatures for documents and forms, except in cases when the underlying guidance expressly prohibits electronic signatures. Electronic records and signatures will follow the Electronic Signatures in Global and National Commerce Act (ESIGN, 2000) and the Uniform Electronic Transactions Act (UETA, 1999). Electronic records and signatures carry the same weight and legal effect as traditional paper documents and handwritten signatures. THA will not deny the legal effect or enforceability of a document solely because it is in electronic form. THA will continue to make available paper copies or accept phone applications upon request.

³ FDIC. The Electronic Signatures in Global and National Commerce Act (E-Sign Act)
<https://www.fdic.gov/regulations/compliance/manual/10/X-3.1.pdf>

Electronic Documents and Signature Project:

A project outline and team have been formed to collect, verify and monitor THA electronic forms and documents across all THA operational departments. The project in Open Door for Electronic Signatures on THA Documents (AD-2020-009) will help guide the Enterprise Content Management Administrator during implementation of the new Electronic Content Management System (AD-2020-008).

We will rely on your direction if this proposal requires additional discussion and approval from THA's Cabinet before going to the Board of Commissioners. If this proposal is approved, a board resolution will be provided for the Board of Commissioners approval at the January 2020 Board Meeting. We would appreciate a response to this memo by January 6, 2021.

An invitation for public comment on the proposed revision to THA's Administration plan is posted on THA's website at <https://www.tacomahousing.net/news-updates/articles/public-comment-electronic-signature-and-form-submission> and the Northwest Justice Project has been contacted about the notice.