



811 PRA: Written Policies and Procedures

March 27, 2024

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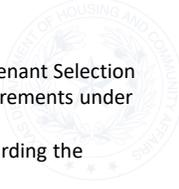
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Written Policies and Procedures

- Owner's will need to update by **May 31, 2024** their written policies and procedures to reflect the changes described in:
 - The HOTMA Final Rule (February 14, 2023),
 - The HUD Notice 2023-10 HOTMA Implementation Guidance (September 29, 2023),
 - The revised HUD Notice 2023-10 HOTMA Implementation Guidance (February 2, 2024), and
 - HUD Notice 2024-04 (February 28, 2024)
- For these resources, please visit HUD's HOTMA Resources website here: https://www.hud.gov/program_offices/public_indian_housing/hotmaresources.

Written Policies and Procedures

- The Department may conduct a review of the Tenant Selection Plan through the Fair Housing Division for requirements under 10 TAC §10.802
- This training today is not the same training regarding the Department's Written Policies and Procedures
- Please visit the Fair Housing Division's webpage here: <https://www.tdhca.texas.gov/programs/fair-housing>.
- Send questions to this email: fair.housing@tdhca.texas.gov.



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Written Policies and Procedures

1. Tenant Selection Plan
2. House Rules
3. EIV Policies
4. Administrative/Management Plan



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Module 1

Tenant Selection Plan

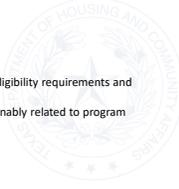


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Tenant Selection Plan

What is a Tenant Selection Plan?

- Are written tenant selection policies and procedures that include descriptions of the eligibility requirements and income limits for admission
- Must be consistent with the purpose of improving housing opportunities and be reasonably related to program eligibility
- The plan must include the following required topics:
 - Project eligibility requirements
 - Income limits
 - Procedures for accepting applications and selection from the waiting list
 - Occupancy standards
 - Unit transfer policies
 - General Fair Housing requirements
 - Eligibility of students
 - Policies for applying Violence Against Women Act (VAWA)
- The Department does not approve tenant selection plans; however, the 811 Administration Division monitors for compliance with the 811 PRA program during monitoring reviews, complaints, etc.



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Tenant Selection Plan: Required and Suggested Topics

The policies and procedures detailed below are applicable only to 811 PRA. All other policies and procedures adopted by the development will also apply to Eligible Applicants (applicants) and participating Eligible Tenants in 811 PRA unless they directly contradict with the following policies, which will supersede.



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Tenant Selection Plan: Program Eligibility Requirements

Program eligibility determines whether applicants are eligible for assistance.

- Family's income must not exceed the program income limits.
- Applicants and tenants must disclose SSNs for all household members, with two exceptions.
- Must sign Release and Consent HUD Form 9887/9887-A.
- The unit for which the family is applying must be the family's only residence.
- Applicant must agree to pay the rent required by the program.
- All information reported by the family is subject to verification.

*These statements must be included in the TSP.

For 811 PRA, Disability Status is also determined prior to occupancy.

- The applicant household must include at least one person with a disability and who is 18 years of age or older and less than 62 years of age at the time of admission into the property; and the person with a disability must be part of one or more of the target populations.



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Tenant Selection Plan: Program Eligibility Requirements

Target Populations

People with disabilities exiting, or having exited, an Intermediate Care Facility (ICF) or Nursing Facility	People with serious mental illness	Youth and young adults with disabilities exiting foster care
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Tenant Selection Plan: Program Eligibility Requirements

Who is eligible within the Target Populations?

Extremely low-income (30% AMI) households whose incomes are at or below the income limits calculated by HUD	Each eligible household must have a qualified member of the Target Population at least 18 years of age and under the age of 62	Disabled household member must be eligible for services and a member of one of the program's Target Populations	Individuals must be referred to the program by a Qualified Referral Agent
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Tenant Selection Plan: Income Limits

4350.3 3-6(A) "Except under limited circumstances, in order for an applicant to be eligible for occupancy, the applicant family's annual income must not exceed the applicable income limit."

The applicant family's annual income must not exceed the extremely low-income (30% of median income for the area) as determined by HUD.

After determining family income, the owner must compare the family's annual income to the appropriate income limit



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Tenant Selection Plan: Procedures for Taking Applications and Selection from the Waitlist

Applicant Screening criteria:

- Any household containing a member who was evicted in the last three years from federally assisted housing for drug-related criminal activity will be denied.
- Any household member is currently engaged in illegal use of a drug or for which the owner has reasonable cause to believe that a member's illegal use or pattern of illegal use of a drug will interfere with the health, safety, and right to peaceful enjoyment of the property by other residents will be denied.
- Any household member's behavior, from abuse or pattern of abuse of alcohol is determined to potentially interfere with the health, safety, and right to peaceful enjoyment by other residents will be denied.
- Any household member who is subject to a state sex offender lifetime registration requirement must be denied. HUD Handbook 4350.3-4-4(C)(3)(d) & 4-7(B-C)
- If other screening (rental, credit, etc.) is used by the property, this must be discussed as well. HUD Handbook 4-4(C)(3)(d) & 4-7(E).

Enterprise Income Verification (EIV): When the Owner is utilizing the EIV Existing Tenant Search, the following must be disclosed in the TSP: HUD's EIV database will be utilized to run the Existing Tenant Search when processing an application to determine if any applicant household member may be currently residing and/or receiving assistance through another Multifamily Housing or Public and Indian Housing (PIH) location. HUD Handbook 4-4(C)(3)(d)

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Tenant Selection Plan: Procedures for Taking Applications and Selection from the Waitlist

Program reasons for rejecting an applicant:

- No qualifying household member between the ages of 18 and 62
- Not a member of the target population (target verification form not completed)
- Not disabled (disability verification form not completed)
- Not referred by a qualified referral agent (walk-ins not permitted)
- Non-eligible student (does not comply with Par. 3-13.B of the HUD Handbook)

Procedures for rejecting applicants:

- Must provide reasons for why they would reject and how they notify the rejected applicant must be discussed
 - Family's income must not exceed the program income limits.
 - Applicants and tenants must disclose SSNs for all household members, with two exceptions.
 - Must sign Release and Consent HUD Form 9887/9887-A.
 - The unit for which the family is applying must be the family's only residence.
 - Applicant must agree to pay the rent required by the program.
 - All information reported by the family is subject to verification.

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Tenant Selection Plan: Referral Process

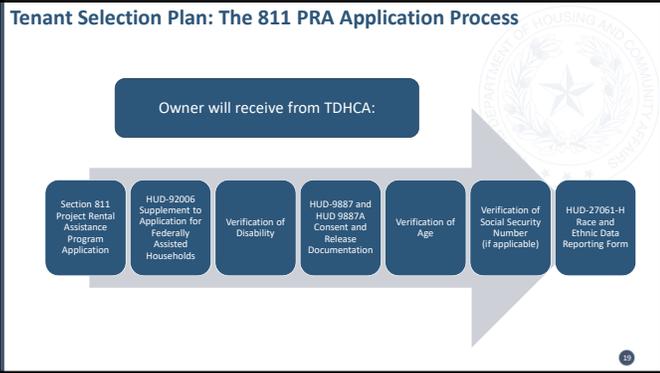
Referral Agents conduct outreach to Target Populations and make referrals to TDHCA for the development of the participant's choice

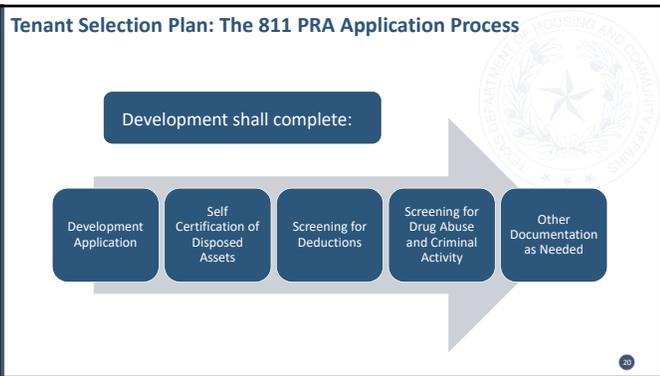
TDHCA as the Point-of-Contact (POC) verifies that all documentation has been gathered and refers the participant to the development when there is a vacancy

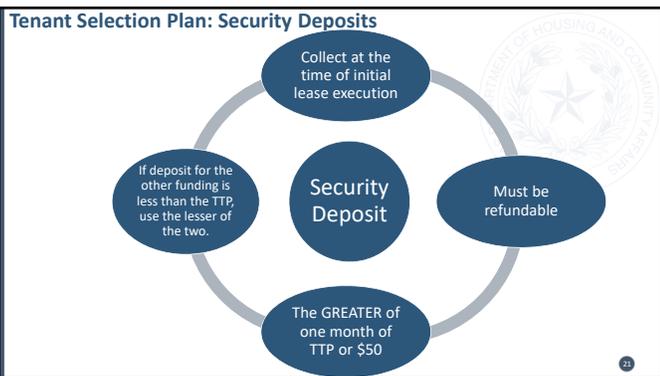
Owner conducts tenant screening, verifies income eligibility and executes HUD Model Lease with the participant

TDHCA provides rental assistance payments on behalf of the 811 PRA tenant

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Calculating Rent from Adjusted Income



- The total tenant payment (TTP) is the greater of the following:
 - 30% of monthly adjusted income
 - 10% of monthly gross income
 - Welfare rent (not applicable in Texas)
- The owner's or service bureau's software calculates the tenant's portion of rent
- The 811 program does not have a minimum tenant rent requirement

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Tenant Selection Plan: Rejected Applicants

- Owner must notify the Department of determination of ineligibility of the 811 PRA applicant §8.6(j)(2)
- Must follow Par. 4-9 of the HUD Handbook:
 - Rejection notices must be in writing
 - Rejection notice must include:
 - The reason for the rejection
 - The applicant's right to respond to the Owner in writing or request a meeting within 14 days to dispute the rejection
 - Any meeting with the applicant to discuss the applicant's rejection must be conducted by a member of the owner's staff who was not involved in the initial decision to deny admission or assistance
 - Within 5 business days of the owner response or meeting, the Owner must advise the applicant in writing of the final decision on eligibility
 - Persons with Disabilities have the right to request a reasonable accommodations to participate in the informal hearing process

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Tenant Selection Plan: Unit Transfer Policies

- Unit transfer policies, including procedures for selecting between applicants on the waiting list and current tenants who need:
 - A unit transfer because of family size
 - A new unit because of changes in family composition
 - A unit transfer for a medical reason certified by a doctor
 - A unit transfer based on the need for an accessible unit

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Tenant Selection Plan: General Fair Housing Requirements

- Policies to Comply with Section 504 of the Rehabilitation Act of 1973, The Fair Housing Act Amendments of 1988 and Title VI of the Civil Rights Act of 1964
 - Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in any program or activity receiving federal financial assistance from HUD
 - The Fair Housing Act prohibits discrimination in housing and housing related transactions based on race, color, religion, sex, national origin, disability and familial status. It applies to housing, regardless of the presence of federal financial assistance
 - Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color or national origin in any program or activity receiving federal financial assistance from HUD

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Tenant Selection Plan: Student Eligibility

- During the application process, onsite staff should determine if each adult household member is student eligible
- If an adult is a student, part- or full-time, the student must meet ALL of the following criteria to be eligible
 - Be of legal contract age under state law
 - Either:
 - Has established a household separate from parents or legal guardians for at least one year prior to application for occupancy OR
 - Meet the U.S. Department of Education's definition of an independent student
 - Not be claimed as a dependent by parents or legal guardians pursuant to IRS regulations and
 - Obtain a certification of the amount of financial assistance that will be provided by parents, signed by the individual providing the support. This certification is required even if no assistance will be provided.
- Please be advised that the applicant may need to comply with other programs requirements for students, such as the Housing Tax Credit program

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Tenant Selection Plan: Student Eligibility

U.S. Department of Education's definition of an Independent Student requires the individual to meet one or more of the following criteria:

Be at least 24 years old by December 31st of the current year

Be an orphan or a ward of the court anytime since 13 years of age, or an emancipated minor

Serving on active duty of U.S. Armed Forces

Have legal dependents other than spouse

Be a graduate or professional student

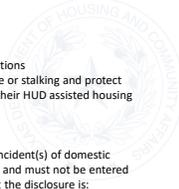
Married

Homeless or self-supporting at risk of being homeless

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Tenant Selection Plan: Policies for Applying VAWA

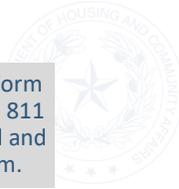
- The Tenant Selection Plan must include policies and procedures covering VAWA protections
- The Owner policies must support or assist victims of domestic violence, dating violence or stalking and protect victims, as well as members of their family, from being denied housing or from losing their HUD assisted housing as a consequence of domestic violence, dating violence or stalking.
- Refer to §10.613 for additional guidance on required VAWA forms
- Confidentiality of Information
 - The identity of the victim and all information provided to owners relating to the incident(s) of domestic violence, dating violence or stalking must be retained in confidence by the owner and must not be entered into any shared database or provided to a related entity, except to the extent that the disclosure is:
 - (1) Requested or consented to by the individual in writing;
 - (2) Required for use in an eviction proceeding; or
 - (3) Otherwise required by applicable law. The HUD-approved certification form provides notice to the tenant of the confidentiality of the form and the limits thereof.
- Retention of information
 - Owners must retain all documentation relating to an individual's domestic violence, dating violence or stalking in a separate file that is kept in a separate secure location from other tenant files.



Tenant Selection Plan: Policies for Applying VAWA

After OMB approval of the HUD Form 91067 VAWA lease addendum, all 811 PRA households must have a valid and executed VAWA lease addendum.

VAWA HUD Forms 5380 and 5382 are required to be provided at the time of admission, denial and notification of eviction or termination of assistance.



Tenant Selection Plan: Fees

Disallowable Fees

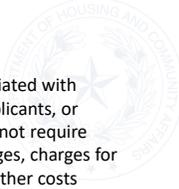
Application Fees

Pet Rent



Tenant Selection Plan: Fees

- **Application Fees**
 - An owner must not charge applicants for costs associated with accepting and processing applications, screening applicants, or verifying income and eligibility. Hence, owners must not require applicants to pay application fees, credit report charges, charges for home visits, charges to obtain a police report(s), or other costs associated with the above functions. These costs are considered project expenses.
- **Pet Rent**
 - The list of permissible fees is found under Par. 6-25 of the HUD Handbook
 - Pet rent is not listed as a permissible fee



Module 2

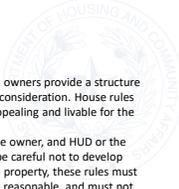
House Rules



House Rules

What are house rules?

- By identifying allowable and prohibited activities in housing units and common areas, owners provide a structure for treating tenants equitably and for making sure that tenants treat each other with consideration. House rules are also beneficial in keeping the properties safe and clean and making them more appealing and livable for the tenants.
- The decision about whether to develop house rules for a property rests solely with the owner, and HUD or the Contract Administrator's review or approval is not required. Owners, however, must be careful not to develop restrictive rules that limit the freedom of tenants. If owners develop house rules for a property, these rules must be consistent with HUD requirements for operating HUD subsidized projects, must be reasonable, and must not infringe on tenants' civil rights.
- House rules are listed in the lease as an attachment to the lease. It is important, however, to recognize that house rules do not replace the lease.
- House rules must not create a disparate impact on tenants based on race, color, national origin, religion, sex, disability, or familial status.



House Rules: Key Requirements

- House rules must
 - Be related to the safety, care, and cleanliness of the building or the safety and comfort of the tenants
 - Be compliant with HUD requirements
 - Not circumvent HUD requirements
 - Not discriminate against individuals based upon membership in protected class
 - Be reasonable.
 - Reasonable house rules are within the bounds of common sense. They are not excessive or extreme, and most importantly, they are fair.
 - Figure 6-6 identifies examples of reasonable and unreasonable house rules. The table does not include all possible situations; therefore, owners must use their own discretion to determine whether a house rule is reasonable or not while developing house rules for their properties;
- Comply with state and local requirements

"Figure 6-6": Reasonable versus Unreasonable House Rules

Reasonable House Rules	Unreasonable House Rules
Requesting that all visitors sign in when entering the building.	Not allowing a visitor in a tenant's apartment during nighttime.
Not allowing smoking in the common areas of the building.	Asking tenants to turn the lights off after a certain time at night.
Asking tenants to turn sound equipment low after a certain time at night.	Asking all children under the age of 12 to be accompanied by an adult resident at all times in the building.
Asking all children under the age of 12 to be accompanied by an adult resident when using building facilities.	

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House Rules: Key Requirements

- Extended absence or abandonment
 - As part of a property's house rules, owners may establish rules specifying when tenants give up their right to occupancy because of their extended absence or abandonment of the unit. Under these rules, owners may initiate action to terminate tenancy in response to an extended absence or abandonment of the unit by the tenant or individual listed on the lease for that unit.
 - Abandonment is distinguished from an absence from the unit by the tenant's failure to pay the rent due for the unit and failure to acknowledge or respond to notices from the owner regarding the overdue rent.
 - Check Par. 6-9.B.2 for details
- Tenants conducting incidental business in their unit
 - Owners may establish house rules covering tenants who conduct incidental business, such as computer work, limited babysitting, etc., in their unit.
 - See Par. 6-9.B.3 for details
- House rules are listed in the lease as an attachment and must be attached to the lease.
- Owners must give tenants written notice 30 days prior to implementing new house rules.
- If TDHCA becomes aware that house rules circumvent or conflict with HUD requirements (including civil rights and Fair Housing), the owner will be required to modify the rules in order to conform with HUD requirements.

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House Rules: Other Fees

Allowable Fees

- Damage due to neglect;
- current tenant has 30 days to pay after receipt of bill.
 - Damages at move-out can be deducted from Security Deposit.

Lock-out calls or providing extra keys

Reasonable court filing, attorney and legal fees

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House Rules: Pet Rules

Pet Rules

Pets are allowed at owner's discretion

If pets are allowed the owner must create Pet Rules

Does not apply to assistance animals

Included as an addendum to the lease

Maximum Pet Deposit must not exceed \$300. Pet Rules must provide for an initial deposit of \$50 and gradual payments not to exceed \$10 per month

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Module 3

EIV Policies & Procedures



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EIV Policies and Procedures:

What are EIV policies?

EIV policies and procedures detail how owners will keep the data secure and how the EIV reports will be utilized. All information regarding EIV may be found in 4350.3 Chapter 9.

HUD minimum usage requirements are detailed in 4350.3 Exhibit 9-5. Owners may utilize the reports more frequently, only if detailed in their EIV policies and procedures.

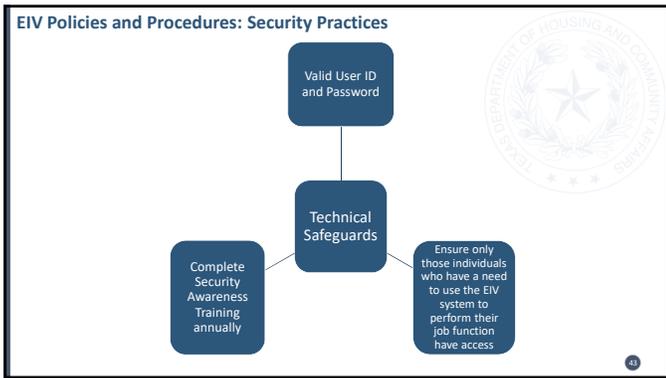
Owners must develop written policies and procedures for EIV

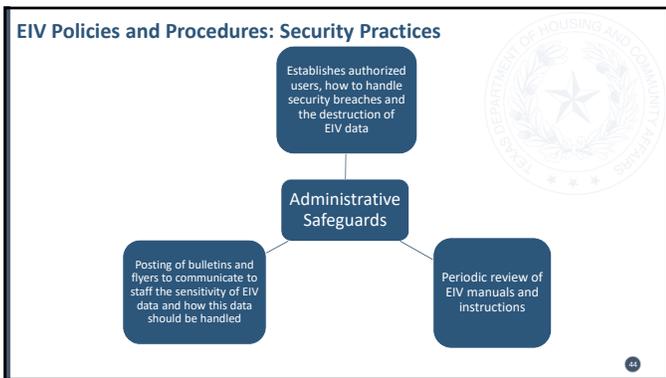
- Ensure consistent actions when discrepancies are found
- Ensure residents are treated in a fair and consistent manner
- Document how and when EIV is used and processed

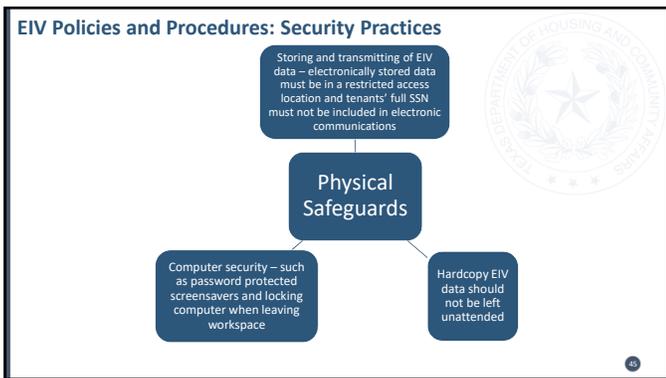
Written Policies and Procedures MUST include

- How EIV data in the report is used
- When the report is completed and reviewed
- How the household's information is protected
- How data is secured

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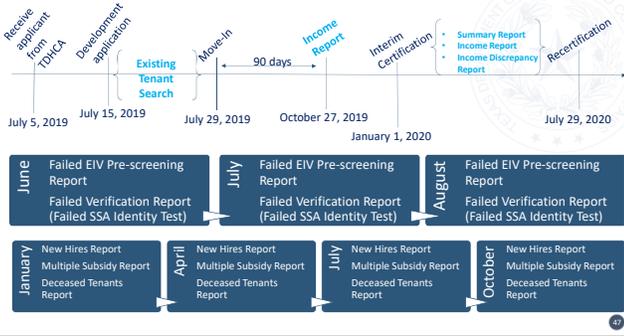


EIV Policies and Procedures: EIV Reports

- Income Reports
 - Summary
 - Income
 - Income Discrepancy
 - New Hires
- Verification Reports
 - Existing Tenant Search
 - Multiple Subsidy
 - Failed EIV Pre-Screening
 - Failed Verification
 - Deceased Tenant
- Additional Income Reports
 - No Income Reported on 50059
 - No Income Reported by HHS or SSA

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EIV Policies and Procedures: EIV Reports Timeline



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EIV Policy and Procedures Review

- 10 TAC §8.6(f)(2) states, "Upon the execution of a RAC, the Owner must submit a copy of the property's EIV Policies and Procedures to the Department for review. If deficiencies are identified, the Owner will be required to correct and resubmit to the Department until all deficiencies have been properly corrected."
- EIV Policies and Procedures must be submitted when they are updated.
- Owners must submit EIV Policies to 811info@tdhca.state.tx.us.

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Notification of Compliance Review

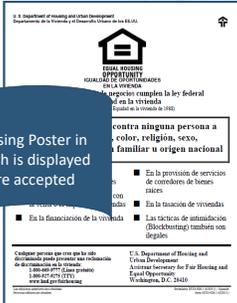
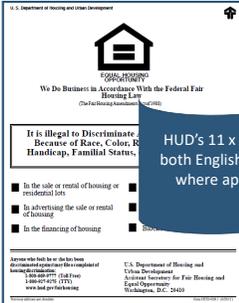


811 Tenant Files must be properly stored in a locked enclosure.



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Notification of Compliance Review



HUD's 11 x 14 Fair Housing poster in both English and Spanish is displayed where applications are accepted



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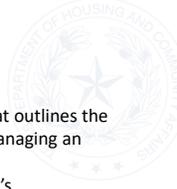
Module 4

Administrative/Management Plan



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Administrative/Management Plan



What is an Administrative/Management Plan?

- An administrative/management plan is a document that outlines the goals, strategies, responsibilities and procedures for managing an apartment community
- In general, the Department does not review a property's administrative/management plan
- However, it may become necessary for the Department to request a copy of a specific policy to understand how the Owner is applying their procedures in a fair and consistent manner
- This may be needed, especially due to HOTMA

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Administrative/Management Plan: HOTMA Considerations

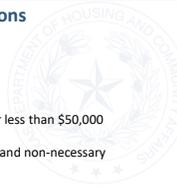


Important Things to Consider regarding HOTMA:

- Do not include any asset limitations found under Attachment A of the HOTMA Guidance
 - There is no cap of \$100,000 on assets
 - There is no restriction on real estate
- Include the following topics:
 - Calculating Income (B)
 - Updated to include 3 step process for Annual Reexaminations
 - Add de minimis errors and process to refund overcharge
 - Deductions and Expenses (C)
 - Must NOT align definition of health and medical expenses to reflect IRS general definition
 - Add criteria and procedures for hardship exemptions (general and phased-in)
 - Household Composition (E)
 - Updated definition of family
 - Updated new definitions of Foster Adult and Foster Child

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Administrative/Management Plan: HOTMA Considerations



Important Things to Consider regarding HOTMA:

- Income Inclusions (F)
 - Whether or not property accepts a self-certification of assets equal to or less than \$50,000
 - Updated definition of Annual Income
 - Updated requirements for assets, including real property and necessary and non-necessary personal property
 - Updated financial aid
- Income Exclusions (G)
 - Updated list of exclusions
- Inflationary Adjustments (H)
 - Adjustments to:
 - Assets
 - Deductions

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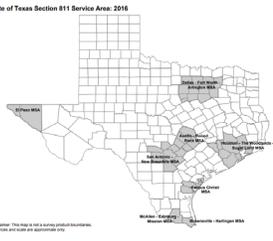
Administrative/Management Plan: HOTMA Considerations

Important Things to Consider regarding HOTMA:

- Interim Reexaminations (I)
 - May NOT establish a dollar-figure threshold
 - When will conduct
 - Timeline to complete
 - When applying change when completed late
- Verifications
 - What happens when tenant revokes consent (HUD-9887/9887-A)
 - If accepting Safe Harbor and what if multiple sources of verifications (priority)
 - Verification Hierarchy



State of Texas Section 811 Service Areas, 2016



Thank you!

The 811 Team and Compliance appreciate you all.

RESOURCES:

[HTTPS://WWW.TDHCA.STATE.TX.US/SECTION-811-PRA/INDEX.HTM](https://www.tdhca.state.tx.us/section-811-pra/index.htm)

[HTTPS://WWW.TDHCA.STATE.TX.US/PMC/COMP/](https://www.tdhca.state.tx.us/pmc/comp/)

[HTTPS://WWW.TDHCA.STATE.TX.US/SECTION-811-PRA/CONTACT.HTM](https://www.tdhca.state.tx.us/section-811-pra/contact.htm)