

# **Streamlined Certification of Fixed Income under Fixing America's Surface Transportation (FAST) Act of 2016**

## **Frequently Asked Questions Regarding HUD's Interim Final Rule**

**[Docket No. FR 5743-I-04]**

### **Q1: What is an interim final rule?**

A1: An interim final rule is one of several rulemaking apparatuses that a Federal agency may utilize to seek comments on proposed changes to regulations. An interim final rule, however, effectuates the changes following the comment period, rather than necessitating a final rule to effectuate such changes as would be the case with a proposed rule. In this case, HUD is soliciting comments for 30 days, and is making the changes effective 90 days after the publication of the rule.

### **Q2: What does the interim final rule permit PHAs/owners to do regarding streamlined reexaminations for families on fixed income?**

A2: The interim final rule permits, but does not require, PHAs/owners to utilize streamlined requirements for verifying and adjusting fixed income sources for some families. Specifically, for families with an unadjusted income consisting of 90 percent or more from fixed income sources, PHAs/owners may:

- In the initial year of a three-year cycle, complete an annual income determination consistent with all applicable HUD regulations and guidance;
- In the second and third year of the three-year cycle, obtain from the family a certification that their fixed income sources have not changed, and that the family's income is still made of at least 90 percent from fixed income sources;
- If the family provides that certification in years two and three, adjust the family's fixed income sources by the Cost of Living Adjustment (COLA) that is applicable to that fixed income source;
- Establish policies regarding whether and how to adjust any non-fixed sources of income in the second and third years;
- Begin the three-year cycle again beginning in year four.

This interim final rule does not eliminate the requirement to conduct an annual reexamination for every household each year.

### **Q3: How does HUD define fixed-income sources for the purpose of determining whether a PHA/owner may use the streamlined process for a particular family?**

A3: For the purpose of streamlined reexaminations, HUD defines fixed income to mean periodic payments at reasonably predictable levels from one or more of the following sources:

- Social Security, Supplemental Security Income, Supplemental Disability Insurance;

- Federal, state, local, or private pension plans;
- Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts; or
- Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

This definition is currently found in Housing Notice 2016-09 and PIH Notice 2016-05.

**Q4: How does the PHA/owner identify and verify the COLA applicable to each fixed income source?**

A4: PHAs/owners may rely on either public information related to a specific COLA or they must obtain third-party documentation of the applicable COLA. For example, for Social Security income, a PHA/owner may rely on the publicly available COLA, rather than relying on third-party documentation. PHAs/owners must properly document any fixed source of income, and the applicable COLA or interest adjustment for each specific fixed source of income.

**Q5: Is this flexibility only available for elderly or disabled families?**

A5: No, this flexibility is available to any family with fixed-income sources totaling at least 90 percent of the family's unadjusted income.

**Q6: How is this flexibility different than the flexibility provided through HUD's streamlining rule published in 2016?**

A6: Although similar, there are two differences between the final streamlining rule and this interim final rule. Specifically,

- The FAST Act applies to households (all family members) with at least 90 percent fixed income sources, while the streamlining rule applies to any family member with at least one fixed income source.
- The streamlining rule requires PHAs/owners to verify and adjust non-fixed income sources annually, while the FAST Act interim final rule gives PHAs/owners discretion regarding whether to verify and adjust non-fixed income.

**Q7: Does the FAST Act interim final rule replace the final streamlining rule?**

A7: Not in its entirety. The FAST Act does not eliminate the flexibility provided for in the streamlining rule. However, it does amend HUD's regulations to expand the flexibility for some families, while retaining the flexibility to apply streamlined income reviews for any family with a fixed income source.

**Q8: What programs may use this flexibility?**

A8: The change pertaining to annual income reviews in the interim rule applies to the public housing, housing choice voucher (HCV) and project-based section 8 (PBRA) programs.

**Q9: The interim final rule does not speak to the use of the Enterprise Income Verification (EIV) during tenant recertification. What is the EIV requirement if a PHA/owner elects to utilize streamline income determination?**

A9: In 2016, the Office of Public and Indian Housing and the Office of Multifamily Housing each published guidance, via Notice, to expand on the final streamlining rule. Each Notice provided guidance on the use of EIV. HUD will provide expanded EIV guidance through the issuance of a Notice for the interim final rule. This guidance will also apply to the streamlining final rule.

**Q10: Will assets and deductions need to be verified during years streamline income determination is utilized at year two and year three?**

A10: The Office of Public and Indian Housing and the Office of Multifamily will provide guidance as to what assets/deductions, if any, need to be verified at year 2 and year 3. The guidance will be issued to PHAs/owners, via Notice.