Housing Authority
of the Borough of Highland Park

Housing Choice Voucher Program

Administrative Plan

Revised April 2018
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INTRODUCTION

The Housing Authority of the Borough of Highland Park (HPHA) receives its funding for the Housing Choice Voucher (HCV) program from the U.S. Department of Housing and Urban Development (HUD). The HPHA is not a federal department or agency; the HPHA is a public housing agency (PHA). The HPHA is a governmental or public body, created by the Housing Authority of the Borough of Highland Park and authorized by state law to develop and operate housing and housing programs for low-income families. The HPHA enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. The HPHA must ensure compliance with federal laws, regulations and notices and must establish policies and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about the HPHA and its programs with emphasis on the HCV program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

Part I: The Public Housing Agency (PHA). This part includes a description of the PHA, its jurisdiction, its programs, and its mission and intent.

Part II: The HCV Program. This part contains information about the Housing Choice Voucher program operation, roles and responsibilities, and partnerships.

Part III: The HCV Administrative Plan. This part discusses the purpose and organization of the plan and its revision requirements.

PART I: THE PHA

1-I.A. OVERVIEW

This part explains the origin of the HPHA’s creation and authorization, the general structure of the organization, and the relationship between the HPHA Board and staff.

1-I.B. ORGANIZATION AND STRUCTURE OF THE HPHA

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the HPHA for all of Highland Park.

The officials of a PHA are known as Commissioners or, collectively, as the Board of Commissioners. Commissioners are appointed in accordance with state housing law and
generally serve in the same capacity as the directors of a corporation, establishing policies under which the HPHA conducts business, ensuring that policies are followed by HPHA staff and ensuring that the HPHA is successful in its mission. The board is responsible for preserving and expanding the agency’s resources and assuring the agency’s continued viability. The HPHA has seven (7) Commissioners. Six are appointed by the Mayor and Council and one is appointed by the Governor of NJ.

Formal actions of the HPHA are taken through written resolutions, adopted by the Board of Commissioners following a majority vote and entered into the official records of the HPHA.

The principal staff member of the HPHA is the Executive Director (ED), hired and appointed by the Board of Commissioners and approved by the State of NJ Department of Community Affairs. The Executive Director is directly responsible for carrying out the policies established by the commissioners and is delegated the responsibility for hiring, training and supervising the remainder of the HPHA’s staff in order to manage the day-to-day operations of the HPHA to ensure compliance with federal and state laws and directives for the programs managed. In addition, the executive director’s duties include budgeting and financial planning for the agency.

1-I.C. HPHA MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides guiding direction for developing strategy, defining critical success factors, searching out key opportunities, making resource allocation choices, satisfying clients and stakeholders, and making decisions.

HPHA Policy

The vision of the HPHA is to afford shelter, stability, and self-sufficiency for the community to ensure a sustainable quality of life. The HPHA’s mission is to be a catalyst to provide opportunities and to assist people in need of affordable housing through development, acquisition, and partnerships with the communities it serves.

HPHA Mission Statement

- Provide affordable, decent, safe and sanitary housing through the maintenance of our existing units and the development of new units;
- Create an environment which enables residents to live responsibly and with dignity;
- Support residents in their efforts to achieve self-sufficiency;
- Honor public commitments in a fiscally and ethically responsible manner;
- Create and maintain public confidence in the Authority’s operations and staff;
• Ensure that facilities owned and managed by the HPHA are marketable in the community and are appealing to residents;
• Enable the HPHA staff to improve their performance through appropriate vision, education, training, and career development;
• Maintain a level of communication between employees, referral agencies, residents and the general public to provide up-to-date and responsive service to the public served by HPHA;
• Establish performance goals that meet or exceed industry standards and that optimize the use of available resources to achieve its performance objectives;
• Assist the city, state and national governments in identifying and addressing housing needs.

1-I.D. THE HPHA’S PROGRAMS

The following programs are included under this administrative plan:

HPHA Policy

The HPHA’s administrative plan is applicable to the operation of the Housing Choice Voucher program, both tenant-based and project-based.

1-I.E. THE HPHA’s COMMITMENT TO ETHICS AND SERVICE

As a public service agency, the HPHA is committed to providing excellent service to HCV program participants – families and owners – in the community. The HPHA’s standards include:

• Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
• Provide decent, safe, and sanitary housing – in compliance with program housing quality standards – for very low income families while ensuring that family rents are fair, reasonable, and affordable.
• Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
• Promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
• Promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.
• Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.

• Create positive public awareness and expand the level of family, owner, and community support in accomplishing the HPHA’s mission.

• Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.

• Administer an efficient, high-performing agency through continuous improvement of the HPHA’s support systems and commitment to our employees and their development.

The HPHA will make every effort to keep program participants informed of HCV program rules and regulations, and to advise participants of how the program rules affect them.

PART II. THE HOUSING CHOICE VOUCHER (HCV) PROGRAM 1-II.A.

OVERVIEW AND HISTORY OF THE PROGRAM

The intent of this section is to provide the public and staff with information related to the overall operation of the program. There have been many changes to the program since its inception in 1974 and a brief history of the program will assist the reader in understanding the program.

The United States Housing Act of 1937 (the “Act”) is responsible for the birth of federal housing program initiatives. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing developments for low-income residents.

The Housing and Community Development (HCD) Act of 1974 created a new federally assisted housing program – the Section 8 Existing program (also known as the Section 8 Certificate program). The HCD Act represented a significant shift in federal housing strategy from locally owned public housing to privately owned rental housing.

Under the Certificate program, federal housing assistance payments were made directly to private owners of rental housing, where this housing was made available to lower-income families. Eligible families were able to select housing in the private rental market. Assuming that the housing met certain basic physical standards of quality (“housing quality standards”) and was within certain HUD-established rent limitations (“fair market rents”), the family would be able to receive rental assistance in the housing unit. Family contribution to rent was generally set at 30 percent of the family’s adjusted income, with the remainder of the rent paid by the program.

Another unique feature of the Certificate program was that the rental assistance remained with the eligible family, if the family chose to move to another privately-owned rental unit that
met program requirements (in contrast to the public housing program where the rental assistance remains with the unit, should the family decide to move). Consequently, the Certificate program was characterized as tenant-based assistance, rather than unit-based assistance.

The Housing and Community Development (HCD) Act of 1987 authorized a new version of tenant-based assistance – the Section 8 Voucher program. The Voucher program was very similar to the Certificate program in that eligible families were able to select housing in the private rental market and receive assistance in that housing unit.

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, but there was no fair market rent limitation on rent. In addition, family contribution to rent was not set at a limit of 30 percent of adjusted income. Consequently, depending on the actual rental cost of the unit selected, a family might pay more or less than 30 percent of their adjusted income for rent.

From 1987 through 1999, public housing agencies managed both the Certificate and Voucher tenant-based assistance programs, with separate rules and requirements for each. From 1994 through 1998, HUD published a series of new rules, known as “conforming” rules, to more closely combine and align the two similar housing programs, to the extent permitted by the law.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act – was signed into law. QHWRA eliminated all statutory differences between the Certificate and Voucher tenant-based programs and required that the two programs be merged into a single tenant-based assistance program, now known as the Housing Choice Voucher (HCV) program.

The HCV program was modeled closely on the pre-merger Voucher program. However, unlike the pre-merger Voucher program, the HCV program requires an assisted family to pay at least 30 percent of adjusted income for rent.

The transition of assistance from the Certificate and Voucher programs to the new HCV program began in October 1999. By October 2001, all families receiving tenant-based assistance were converted to the HCV program.

1-II.B. HCV PROGRAM BASICS

The purpose of the HCV program is to provide rental assistance to eligible families. The rules and regulations of the HCV program are determined by the U.S. Department of Housing and Urban Development. The HPHA is afforded choices in the operation of the program which are included in the HPHA’s administrative plan, a document approved by the Board of Commissioners of the HPHA.
The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in the HPHA’s jurisdiction and may also be eligible to move under portability to other HA’s jurisdictions.

When a family is determined to be eligible for the program and funding is available, the HPHA issues the family a housing voucher. When the family finds a suitable housing unit and funding is available, the HPHA will enter into a contract with the owner and the family will enter into a lease with the owner. Each party makes their respective payment to the owner so that the owner receives full rent.

Even though the family is determined to be eligible for the program, the owner has the responsibility of approving the family as a suitable renter. The HPHA continues to make payments to the owner as long as the family is eligible and the housing unit continues to qualify under the program.

1-II.C. THE HCV PARTNERSHIPS

To administer the HCV program, the HPHA enters into a contractual relationship with HUD. The HPHA also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit.

For the HCV program to work and be successful, all parties involved – HUD, the HPHA, the owner, and the family – have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the program.

What does HUD do?

HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement HCV housing program legislation passed by Congress;
- Allocate HCV program funds to the PHA;
- Provide technical assistance to the PHA on interpreting and applying HCV program requirements;
- Monitor PHA compliance with HCV program requirements and PHA performance in program administration.

What does the PHA do?
The PHA administers the HCV program under contract with HUD and has the following major responsibilities:

- Establish local policies;
- Review applications from interested applicant families to determine whether applicants are eligible for the program;
- Maintain waiting list and select families for admission;
- Issue voucher to selected family and, if necessary, assist the family in finding a place to live;
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration;
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy;
- Make housing assistance payments to the owner in a timely manner;
- Ensure that families and their rental units continue to qualify under the program;
- Ensure that owners and families comply with program rules;
- Provide families and owners with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the PHA’s administrative plan, and other applicable federal, state and local laws.

What does the Owner do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine if they will be good renters.
  - The PHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
  - The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the Housing Assistance Payments contract, executed with the PHA;
- Comply with all applicable fair housing laws and discriminate against no one;
• Maintain the housing unit by making necessary repairs in a timely manner;
• Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

What does the Family do?
The family has the following responsibilities:
• Provide the PHA with complete and accurate information, determined by the HPHA to be necessary for administration of the program;
• Make their best and most timely efforts to find a place to live that is suitable for them and that qualifies for the program;
• Attend all appointments scheduled by the PHA;
• Allow the PHA to inspect the unit at reasonable times and after reasonable notice;
• Take responsibility for care of the housing unit, including any violations of housing quality standards caused by the family;
• Comply with the terms of the lease with the owner;
• Comply with the family obligations of the voucher;
• Not commit serious or repeated violations of the lease;
• Not engage in drug-related or violent criminal activity;
• Notify the PHA and the owner before moving or terminating the lease;
• Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit, assign the lease, or have any interest in the unit;
• Promptly notify the PHA of any changes in family composition;
• Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled effectively.

1-II.D. APPLICABLE REGULATIONS
Applicable regulations include:
• 24 CFR Part 5: General Program Requirements
• 24 CFR Part 8: Nondiscrimination
PART III. THE HCV ADMINISTRATIVE PLAN III.A.

OVERVIEW AND PURPOSE OF THE PLAN

The administrative plan is required by HUD. The purpose of the administrative plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the HPHA’s agency plan. This administrative plan is a supporting document to the HPHA agency plan, and is available for public review as required by CFR 24 Part 903.

This administrative plan is set forth to define the HPHA’s local policies for operation of the housing programs in the context of federal laws and regulations. All issues related to Section 8 not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices and other applicable law. The policies in this administrative plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

The HPHA is responsible for complying with all changes in HUD regulations pertaining to the HCV program. If such changes conflict with this plan, HUD regulations will have precedence.

Administration of the HCV program and the functions and responsibilities of HPHA staff shall be in compliance with the HPHA’s personnel policy and HUD’s Section 8 regulations as well as all federal, state and local fair housing laws and regulations.

1-III.B. CONTENTS OF THE PLAN (24CFR 982.54)

HUD regulations contain a list of what must be included in the administrative plan. The HPHA’s administrative plan must cover HPHA policies on these subjects:

- Selection and admission of applicants from the HPHA waiting list, including any HPHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the HPHA waiting list (Chapter 4);
- Issuing or denying vouchers, including HPHA policy governing the voucher term and any extensions or suspensions of the voucher term. 'Suspension' means stopping the clock on the term of a family’s voucher after the family submits a request for approval of the tenancy. If the HPHA decides to allow extensions or suspensions of the voucher term, the HPHA administrative plan must describe how the HPHA determines whether to grant extensions or suspensions, and how the HPHA determines the length of any extension or suspension (Chapter 5);
- Any special rules for use of available funds when HUD provides funding to the HPHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4);
- Occupancy policies, including definition of HPHA group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 12);
- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13);
- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
- Providing information about a family to prospective owners (Chapters 3 and 9);
- Disapproval of owners (Chapter 13);
- Subsidy standards (Chapter 5);
- Family absence from the dwelling unit (Chapter 12);
- How to determine who remains in the program if a family breaks up (Chapter 3);
- Informal review procedures for applicants (Chapter 16);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising voucher payment standards (Chapter 16);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
- Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);
- Policies concerning payment by a family to the HPHA of amounts the family owes the PHA (Chapter 16);
- Interim redeterminations of family income and composition (Chapter 11);
- Restrictions, if any, on the number of moves by a participant family (Chapter 10);
- Approval by the board of commissioners or other authorized officials to charge the administrative fee reserve (Chapter 16);
- Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and
- PHA screening of applicants for family behavior or suitability for tenancy (Chapter 3).
Mandatory vs. Discretionary Policy

HUD makes a distinction between:

- **Mandatory policies**: those driven by legislation, regulations, current handbooks, notices, and legal opinions, and

- **Optional, non-binding guidance**, including guidebooks, notices that have expired and recommendations from individual HUD staff.

HUD expects PHAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the PHA has adopted. The PHA’s administrative plan is the foundation of those policies and procedures. HUD’s directions require PHAs to make policy choices that provide guidance to staff and consistency to program applicants and participants.

Following HUD guidance, even though it is not mandatory, provides a PHA with a “safe harbor.” HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If a PHA adopts an alternative strategy, it must make its own determination that the alternative approach is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than HUD’s safe harbor, but PHAs should carefully think through those decisions.

**1-III.C. ORGANIZATION OF THE PLAN**

The Plan is organized to provide information to users in particular areas of operation.

**1-III.D. UPDATING AND REVISING THE PLAN**

The HPHA will revise this administrative plan as needed to comply with changes in HUD regulations. The original plan and any changes must be approved by the board of commissioners of the agency, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

**HPHA Policy**

The HPHA will review and update the plan as needed, to comply with change in HUD regulations, HPHA operations, or when needed to ensure staff consistency in operation.
Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring PHAs to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of the PHA’s housing choice voucher (HCV) operations.

This chapter describes HUD regulations and PHA policies related to these topics in three parts:

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of the PHA regarding nondiscrimination.

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the housing choice voucher program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.


PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. The PHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
• Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)

• Executive Order 11063

• Section 504 of the Rehabilitation Act of 1973

• The Age Discrimination Act of 1975

• Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)

• Violence Against Women Reauthorization Act of 2005 (VAWA)

• When more than one civil rights law applies to a situation, the laws will be read and applied together.

• Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

**HPHA Policy**

The State of New Jersey prohibits discrimination in housing on the basis of race, color, religion, national origin, ancestry, disability, sex (including sexual orientation and gender identity/expression), marital status, familial status, and source of income.

**2-I.B. NONDISCRIMINATION**

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as PHA policies, can prohibit discrimination against additional classes of people.

The PHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called “protected classes”)

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

**HPHA Policy**

The HPHA will not discriminate on the basis of marital status or sexual orientation. The HPHA will not use any of these factors to:

• Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher program

• Provide housing that is different from that provided to others
• Subject anyone to segregation or disparate treatment
• Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
• Treat a person differently in determining eligibility or other requirements for admission
• Steer an applicant or participant toward or away from a particular area based any of these factors
• Deny anyone access to the same level of services
• Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
• Discriminate in the provision of residential real estate transactions
• Discriminate against someone because they are related to or associated with a member of a protected class
• Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

Providing Information to Families and Owners

The PHA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, the PHA must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301]. The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by the PHA or an owner, the family should advise the PHA. HUD requires the PHA to make every reasonable attempt to determine whether the applicant’s or participant’s assertions have merit and take any warranted corrective action. In addition, the PHA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

HPHA Policy

Applicants or participants who believe that they have been subject to unlawful discrimination may notify the HPHA Section 8 Administrator either orally or in writing.

The HPHA will attempt to remedy discrimination complaints made against the HPHA.
The HPHA will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD’s Office of Fair Housing and Equal Opportunity (FHEO).

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES 2-II.A. OVERVIEW

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

The PHA must ensure that persons with disabilities have full access to the PHA’s programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the HCV program.

HPHA Policy

The HPHA will ask all applicants and participants if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the HPHA, by including the following language:

“If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing authority.”

A specific name and phone number will be indicated as the contact for requests for accommodation for persons with disabilities.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A person with a disability may require special accommodations in order to have equal access to the HCV program. The types of reasonable accommodations the PHA can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the PHA, or result in a “fundamental alteration” in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider’s operations.
Types of Reasonable Accommodations

When needed, the PHA must modify normal procedures to accommodate the needs of a person with disabilities. Examples include:

- Permitting applications and re-examinations to be completed by mail
- Conducting home visits
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the PHA range) if the PHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with HPHA staff
- Displaying posters and other housing information in locations throughout the HPHA's office in such a manner as to be easily readable from a wheelchair

2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the PHA treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain HPHA type of accommodation is needed to provide the person with the disability full access to the PHA’s programs and services.

If the need for the accommodation is not readily apparent or known to the PHA, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable relationship, or nexus, between the requested accommodation and the individual’s disability.

HPHA Policy

The reasonable accommodation Form will be provided to anyone requesting any accommodation for a disability. The form will be forwarded to the health care provider for documentation by the HPHA.
2-II.D. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

Before providing an accommodation, the PHA must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family’s access to the PHA’s programs and services.

If a person’s disability is obvious, or otherwise known to the PHA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the PHA, the PHA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, the HPHA will follow the verification policies provided in Chapter 7. All information related to a person’s disability will be treated in accordance with the confidentiality policies provided in Chapter 16. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual’s disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

- The PHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The PHA will not inquire about the nature or extent of any disability.

- Medical records will not be accepted or retained in the participant file.

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The PHA must approve a request for an accommodation if the following three conditions are met:

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- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the PHA, or fundamentally alter the nature of the PHA’s HCV operations (including the obligation to comply with HUD requirements and regulations).

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the cost of the requested accommodation, the financial resources of the PHA at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodations that would effectively meet the family’s disability-related needs.

Before making a determination whether to approve the request, the PHA may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that the PHA may verify the need for the requested accommodation.

**HPHA Policy**

If the HPHA denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of the HPHA’s operations), the HPHA will discuss with the family whether an alternative accommodation could effectively address the family’s disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

If the HPHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the HPHA will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family.

**2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS**

HUD regulations require the PHA to ensure that persons with disabilities related to hearing and vision have reasonable access to the PHA’s programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, the PHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.
HPHA Policy

To meet the needs of persons with hearing impairments, the HPHA will provide one-on-one assistance upon request or have a third party representative (friend, relative, or advocate named by the applicant) present to receive, interpret, and explain housing materials and be present at all meetings.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with HPHA staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; TDD Line; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

2-II.G. PHYSICAL ACCESSIBILITY

The PHA must comply with a variety of regulations pertaining to physical accessibility, including the following:

- Notice PIH 2006-13
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

The PHA’s policies concerning physical accessibility must be readily available to applicants and participants. They can be found in three key documents:

- This plan describes the key policies that govern the PHA’s responsibilities with regard to physical accessibility.
- Notice PIH 2006-13 summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of PHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly-constructed facilities must be designed to be readily
accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV program.

When issuing a voucher to a family that includes an individual with disabilities, the PHA will include a current list of available accessible units known to the PHA and will assist the family in locating an available accessible unit, if necessary.

In general, owners must permit the family to make reasonable modifications to the unit. However, the owner is not required to pay for the modification and may require that the unit be restored to its original state at the family’s expense when the family moves.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

A PHA’s decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 982.552 (2)(iv)].

When applicants with disabilities are denied assistance, the notice of denial must inform them of the PHA’s informal review process and their right to request a hearing. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal hearing process.

When a participant family’s assistance is terminated, the notice of termination must inform them of the PHA’s informal hearing process and their right to request a hearing and reasonable accommodation.

When reviewing reasonable accommodation requests, the PHA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the PHA’s decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the PHA must make the accommodation.

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from
federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the Federal Register.

The HPHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this administrative plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

In order to determine the level of access needed by LEP persons, the HPHA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the Housing Choice Voucher program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people’s lives; and (4) the resources available to the HPHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the HPHA.

2-III.B. ORAL INTERPRETATION

In a courtroom, a hearing, or situations in which health, safety, or access to important benefits and services are at stake, the PHA will generally offer, or ensure that the family is offered through other sources, competent services free of charge to the LEP person.

**HPHA Policy**

The HPHA will analyze the various kinds of contacts it has with the public, to assess language needs and decide HPHA reasonable steps should be taken. “Reasonable steps” may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible, the HPHA will train and hire bilingual staff to be available to act as interpreters and translators. Where feasible and possible, the HPHA will encourage the use of qualified community volunteers.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the HPHA. The interpreter may be a family member or friend.
2-III.C. WRITTEN TRANSLATION

Translation is the replacement of a written text from one language into an equivalent written text in another language.

**HPHA Policy**

In order to comply with written-translation obligations, the HPHA will take the following steps:

The HPHA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the HPHA does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

2-III.D. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding HPHA language assistance services are appropriate, the PHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If the PHA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the PHA’s Housing Choice Voucher program and services.

**HPHA Policy**

If it is determined that the HPHA serves very few LEP persons, and the HPHA has very limited resources, the HPHA will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

If the HPHA determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.
EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201]

A person with a disability, as defined under federal civil rights laws, is any person who:

- Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or
- Has a record of such impairment, or
- Is regarded as having such impairment

The phrase “physical or mental impairment” includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

“Major life activities” includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

“Has a record of such impairment” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

“Is regarded as having an impairment” is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as the HPHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

- Current illegal drug users
- People whose alcohol use interferes with the rights of others
Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the HCV program

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the $400 elderly/disabled household deduction, the $480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the HCV program, yet an accommodation is needed to provide equal opportunity.
INTRODUCTION

The PHA is responsible for ensuring that every individual and family admitted to the HCV program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by the PHA to confirm eligibility and determine the level of the family’s assistance.

To be eligible for the HCV program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the PHA.
  - Have income at or below HUD-specified income limits.
  - Qualify on the basis of citizenship or the eligible immigrant status of family members.
  - Provide social security number information for family members as required.
  - Consent to the PHA’s collection and use of family information as provided for in HPHA-provided consent forms.

- The PHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the PHA.

This chapter contains three parts:

- **Part I: Definitions of Family and Household Members.** This part contains HUD and HPHA definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

- **Part II: Basic Eligibility Criteria.** This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.

- **Part III: Denial of Assistance.** This part covers factors related to an applicant’s past or current conduct (e.g. criminal activity) that can cause the PHA to deny assistance.
PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the assisted unit. This part provides information that is needed to correctly identify family and household members, and to apply HUD's eligibility rules.

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c), HUD-50058 IB, p. 13]

The terms family and household have different meanings in the HCV program.

Family

To be eligible for assistance, an applicant must qualify as a family. A family may be a single person or a group of persons. Family as defined by HUD includes a family with a child or children, two or more elderly or disabled persons living together, one or more elderly or disabled persons living with one or more live-in aides, or a single person. A single person family may be an elderly person, a displaced person, a disabled person, or any other single person. The PHA has the discretion to determine if any other group of persons qualifies as a family.

HPHA Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual’s income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family’s composition changes. However, a single person family, or a family of two or more persons cannot arbitrarily add additional household members making them require a larger size unit.

Household

Household is a broader term that includes additional people who, with the PHA’s permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.
3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY

Family Break-up

[24 CFR 982.315]

The PHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up. However, if a court determines the disposition of property between members of the assisted family in a divorce or separation decree, the PHA is bound by the court's determination of which family members continue to receive assistance.

**HPHA Policy**

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

**Remaining Member of a Tenant Family [24 CFR 5.403]**

The HUD definition of family includes the *remaining member of a tenant family*, which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only “remaining members of a tenant family” and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on “Caretakers for a Child.”

**3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]**

*Head of household* means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a co-head or spouse.

**HPHA Policy**

The family may designate any qualified family member as the head of household.

The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.
3-I.E. SPOUSE, CO-HEAD, AND OTHER ADULT

A family may have a spouse or co-head, but not both [HUD-50058 IB, p. 13].

Spouse means the marriage partner of the head of household.

HPHA Policy

A marriage partner includes the partner in a "Civil Union" marriage as defined in state law. The term “spouse” does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

A co-head is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one co-head.

HPHA Policy

Minors who are emancipated under state law may be designated as a co-head.

Other adult means a family member, other than the head, spouse, or co-head, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

3-I.F. DEPENDENT [24 CFR 5.603]

A dependent is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, co-head, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

HPHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 50 percent or more of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the HPHA will make the determination based on available
documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

3-I.G. FULL-TIME STUDENT [24 CFR 5.603; HCV GB, p. 5-29]

A full-time student (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution.

Identifying each FTS is important because: (1) each family member that is an FTS, other than the head, spouse, or co-head, qualifies the family for a dependent deduction, and (2) the income of such an FTS is treated differently from the income of other family members.

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403]

Elderly Persons  An elderly person is a person who is at least 62 years of age.

Near-Elderly Persons  A near-elderly person is a person who is 50-61 years of age.

Elderly Family

An elderly family is one in which the head, spouse, co-head, or sole member is an elderly person. Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 6.


Under the HCV program, special rules apply to persons with disabilities and to any family whose head, spouse, or co-head is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, the PHA must make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person’s disability.

Disabled Family

A disabled family is one in which the head, spouse, or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6.
Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the PHA from denying assistance for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from terminating assistance following the policies in Chapter 12.

**3-I.J. GUESTS [24 CFR 5.100]**

A guest is a person temporarily staying in the unit with the consent of a member of the household who has express or implied authority to so consent.

**HPHA Policy**

A guest staying in the assisted household greater than 14 days in a 12-month period without prior HPHA approval will be considered to be living in the unit as an unauthorized household member and the household’s assistance will be terminated.

Absence of evidence of any other permanent address will be considered verification that the guest is a member of the household. Statements from neighbors and/or the landlord will be considered in making the determination. Use of the assisted unit address as the guest’s residence for **ANY** purpose (including as mailing address) that is not explicitly temporary shall be construed as permanent residence. The burden of proof that the individual is a guest rests on the family.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

**3-I.K. FOSTER CHILDREN AND FOSTER ADULTS**

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609].

The term foster child is not specifically defined by the regulations.

Foster children and foster adults that are living with an applicant or assisted family are considered household members but not family members. The income of foster children/adults is not counted in family annual income, and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603; HUD-50058 IB, p. 13].
**HPHA Policy**

A *foster child* is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards according to 24 CFR 982.401.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

**3-I.L. ABSENT FAMILY MEMBERS**

Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, illness, incarceration, and court order.

**Definitions of Temporarily and Permanently Absent**

**HPHA Policy**

Generally an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

**Absent Students**

**HPHA Policy**

When someone who has been considered a family member attends school away from home, or is on active military service, the person will continue to be considered a family member unless information becomes available to the HPHA indicating that the student has established a separate household or the family declares that the student has established a separate household. Military pay, other than special pay for being subject to hostile fire, will be included as a portion of household income.

**Absences Due to Placement in Foster Care [24 CFR 5.403]**

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.
**HPA Policy**

If a child has been placed in foster care, the HPA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

**Absent Head, Spouse, or Co-head**

**HPA Policy**

An employed head, spouse, or co-head absent from the unit more than 180 consecutive days due to employment or is in active military service will continue to be considered a family member with all income except special pay for being subject to hostile fire will continue to be included as a part of the household income.

**Family Members Permanently Confined for Medical Reasons [HCV GB, p. 5-22]**

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB, p. 5-22].

**HPA Policy**

The HPA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

**Return of Permanently Absent Family Members**

**HPA Policy**

The family must request HPA approval for the return of any adult family members that the HPA has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.

**3-I.M. LIVE-IN AIDE**

*Live-in aide* means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and
well-being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

The PHA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by the family member with disabilities.

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

**HPHA Policy**

A family’s request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. For continued approval, the family must submit a new, written request - subject to HPHA verification - at each annual reexamination.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

The HPHA will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person is required to register with any state as a sex offender;
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the HPHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

Within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request, the HPHA will notify the family of its decision in writing.
PART II: BASIC ELIGIBILITY CRITERIA

II.A. INCOME ELIGIBILITY AND TARGETING

**Income Limits**

HUD is required by law to set income limits that determine the eligibility of applicants for HUD’s assisted housing programs, including the housing choice voucher program. The income limits are published annually and are based on HUD estimates of median family income in a particular area or county, with adjustments for family size.

**Types of Low-Income Families [24 CFR 5.603(b)]**

*Low-income family.* A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

*Very low-income family.* A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

*Extremely low-income family.* A family whose annual income does not exceed 30 percent of the median income for the area, adjusted for family size.

HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Using Income Limits for Eligibility [24 CFR 982.201]**

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family’s annual income with HUD’s published income limits. To be income-eligible, a family must be one of the following:

- **A very low-income family**
- **A low-income family** that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4]
  
  **HPA Policy**

  The HPHA will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were issued a voucher by the HPHA.

- **A low-income family** that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing)
homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173

- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101.

HUD permits the HPHA to establish additional categories of low-income families that may be determined eligible. The additional categories must be consistent with the PHA plan and the consolidated plans for local governments within the PHA’s jurisdiction.

**HPHA Policy**

A low-income family may be considered income-eligible if the family was leasing a unit under any HPHA approved programs at the time they were issued a voucher by the HPHA.

**Using Income Limits for Targeting [24 CFR 982.201]**

At least 75 percent of the families admitted to the PHA’s program during a PHA fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if the PHA demonstrates that it has made all required efforts, but has been unable to attract an adequate number of qualified extremely low-income families.

Families continuously assisted under the 1937 Housing Act or any approved program and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not subject to the 75 percent restriction.

**3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]**

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the HPHA’s Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

**Declaration [24 CFR 5.508]**

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible.
noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, co-head, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

**U.S. Citizens and Nationals**

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the PHA to request additional documentation of their status, such as a passport.

**HPHA Policy**

Family members who declare citizenship or national status will not be required to provide additional documentation unless the HPHA receives information indicating that an individual’s declaration may not be accurate.

**Eligible Noncitizens**

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with PHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person’s age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

**Ineligible Noncitizens**

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a non-contending family members listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. The PHA is not required to verify a family member’s ineligible status and is not required to report an individual’s unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the
citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

**Mixed Families**

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be pro-rated, and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures.

**Ineligible Families [24 CFR 5.514(d), (e), and (f)]**

The PHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the HPHA that the individual or at least one family member is eligible. Verification of eligibility for this purpose occurs when the individual or family members have submitted documentation to the PHA in accordance with program requirements [24 CFR 5.512(a)].

**HPHA Policy**

The HPHA will not provide assistance to a family before the verification of at least one family member.

When the HPHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.

The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the HPHA. The informal hearing with the HPHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

Informal hearing procedures are contained in Chapter 16.
**Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]**

For new occupants joining the assisted family, the PHA must verify status at the first interim or regular reexamination following the person’s occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the PHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

**HPHA Policy**

The HPHA will verify the status of applicants at the time other eligibility factors are determined.

**3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218]**

The applicant and all members of the applicant’s household disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. A detailed discussion of acceptable documentation is provided in Chapter 7.

*Note:* These requirements do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed an SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

The PHA must deny assistance to an applicant family if they do not meet the SSN disclosure, documentation requirements contained in 24 CFR 5.216.

**3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230, HCV GB, p. 5-13]**

HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family’s eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.
The PHA must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3)].

3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612 and FR Notice 4/10/06]

Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR 5.612 established new restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student’s eligibility must be examined along with the income eligibility of the student’s parents. In these cases, both the student and the student’s parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from his/her parents in accordance with PHA policy, the income of the student’s parents will not be considered in determining the student’s eligibility.

The new law does not apply to students who reside with parents who are applying to receive HCV assistance. It is limited to students who are seeking assistance on their own, separately from their parents.

Definitions

In determining whether and how the new eligibility restrictions apply to a student, the PHA will rely on the following definitions [FR 4/10/06, p. 18148].

Dependent Child

In the context of the student eligibility restrictions, dependent child means a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of dependent in 24 CFR 5.603, which states that the dependent must be a member of the assisted family, other than the head of household or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student. Foster children and foster adults are not considered dependents.
Independent Student

HPHA Policy

The HPHA will consider a student “independent” from his or her parents and the parents’ income will not be considered when determining the student’s eligibility if the following four criteria are all met:

1. The individual is of legal contract age under state law.

2. The individual has established a household separate from his/her parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education’s definition of independent student.

To be considered an independent student according to the Department of Education, a student must meet one or more of the following criteria:

- Be at least 24 years old by December 31 of the award year for which aid is sought
- Be an orphan or a ward of the court through the age of 18
- Be a veteran of the U.S. Armed Forces
- Have one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent)
- Be a graduate or professional student
- Be married

3. The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents’ most recent tax forms.

4. The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

The HPHA will verify that a student meets the above criteria in accordance with the policies in Section 7-II.E.
Institution of Higher Education

The HPHA will use the statutory definition under section 102 of the Higher Education Act of 1965 to determine whether a student is attending an institution of higher education (see Exhibit 3-2).

Parents

HPHA Policy

For purposes of student eligibility restrictions, the definition of parents includes biological or adoptive parents, stepparents (as long as they are currently married to the biological or adoptive parent), and guardians (e.g., grandparents, aunt/uncle, godparents, etc).

Person with Disabilities

HPHA Policy

The HPHA will use the statutory definition under section 3(b)(3)(E) of the 1937 Act to determine whether a student is a person with disabilities (see Exhibit 3-1).

Veteran

HPHA Policy

A veteran is a person who served in the active military, naval, or air service and who was discharged or released from such service under conditions other than dishonorable.

Determining Student Eligibility

If a student is applying for assistance on his/her own, apart from his/her parents, the PHA must determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, the PHA must ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from his/her parents or the student’s parents are income eligible for the program, and (3) the “family” with which the student is applying is collectively eligible for the program.

HPHA Policy

For any student who is subject to the 24 CFR5.612 restrictions, the HPHA will:

Follow its usual policies in determining whether the student individually and the student’s “family” collectively are eligible for the program

Determine whether the student is independent from his/her parents in accordance with the definition of independent student in this section
Follow the policies below, if applicable, in determining whether the student’s parents are income eligible for the program.

If the HPHA determines that the student, the student’s parents (if applicable), or the student’s “family” is not eligible, the HPHA will send a notice of denial in accordance with the policies in Section 3-III.F, and the applicant family will have the right to request an informal review in accordance with the policies in Section 16-III.B.

**Determining Parental Income Eligibility**

**HPHA Policy**

For any student who is subject to the 24 CFR 5.612 restrictions and who does not satisfy the definition of *independent student* in this section, the HPHA will determine the income eligibility of the student’s parents as follows:

- If the student’s parents are married and living together, the HPHA will obtain a joint income declaration and certification of joint income from the parents.
- If the student’s parent is widowed or single, the HPHA will obtain an income declaration and certification of income from that parent.
- If the student’s parents are divorced or separated, the HPHA will obtain an income declaration and certification of income from each parent.
- If the student has been living with one of his/her parents and has not had contact with or does not know where to contact his/her other parent, the HPHA will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. The HPHA will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

In determining the income eligibility of the student’s parents, the HPHA will use the income limits for the jurisdiction in which the parents live.
PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance.

In addition, HUD requires or permits the PHA to deny assistance based on certain types of current or past behaviors of family members.

Forms of Denial [24 CFR 982.552(a)(2); HCV GB, p. 5-35]

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list
- Denying or withdrawing a voucher
- Not approving a request for tenancy or refusing to enter into a HAP contract
- Refusing to process a request for or to provide assistance under portability procedures


HUD rules prohibit denial of program assistance to the program based on any of the following criteria:

- Age, disability, race, color, religion, sex, or national origin. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the PHA's jurisdiction (See Chapter 10, Portability.)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program
- Whether or not a qualified applicant has been a victim of domestic violence, dating violence, or stalking
3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a)] HUD requires the PHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits, but does not require, the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household).

  **HPHA Policy**

  The HPHA will not admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, unless the HPHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the HPHA, or the person who committed the crime, is no longer living in the household.

- The PHA determines that any household member is currently engaged in the use of illegal drugs.

  **HPHA Policy**

  *Currently engaged in* is defined as any use of illegal drugs during the previous six months.

- The PHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

  **HPHA Policy**

  In determining reasonable cause, the HPHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. The HPHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing

- Any household member is subject to a lifetime registration requirement under a state sex offender registration program
3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

HUD permits, but does not require, the PHA to deny assistance for the reasons discussed in this section.

Criminal Activity [24 CFR 982.553]

HUD permits, but does not require, the PHA to deny assistance if the PHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before the family would receive assistance, certain types of criminal activity.

**HPHA Policy**

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past three (3) years, the family will be denied assistance:

*Drug-related criminal activity*, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

*Violent criminal activity*, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].

Any criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or

Any criminal activity that may threaten the health or safety of property owners and management staff, and persons performing contract administration functions or other responsibilities on behalf of the HPHA (including a HPHA employee or an HPHA contractor, subcontractor, or agent).

*Immediate vicinity* means within a three-block radius of the premises. Evidence of such criminal activity includes, but is not limited to:

- Any conviction for drug-related or violent criminal activity within the past 3 years.
- Any arrests for drug-related or violent criminal activity within the past 3 years.
- Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 3 years.
- A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.
In making its decision to deny assistance, the HPHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the HPHA may, on a case-by-case basis, decide not to deny assistance.

**Previous Behavior in Assisted Housing [24 CFR 982.552(c)]**

HUD authorizes the PHA to deny assistance based on the family’s previous behavior in assisted housing:

**HPHA Policy**

The HPHA **will not** deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program. (Highland Park does not administer FSS)

The HPHA **will** deny assistance to an applicant family if:

- The family does not provide information that the HPHA or HUD determines is necessary in the administration of the program.
- The family does not provide complete and true information to the HPHA.
- Any family member has been evicted from federally-assisted housing.
- Any PHA has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- The family has breached the terms of a repayment agreement entered into with any PHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.
A family member has engaged in or threatened violent or abusive behavior toward HPHA, or other PHA personnel.

*Abusive or violent behavior towards PHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

*Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to deny assistance, the HPHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the HPHA may, on a case-by-case basis, decide not to deny assistance.

### 3-III.D. SCREENING

#### Screening for Eligibility

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists the PHA in complying with HUD requirements and PHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records the PHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

**HPHA Policy**

The HPHA will perform a criminal background check through local law enforcement for every adult household member.

If the results of the criminal background check indicate that there may be past criminal activity, but the results are inconclusive, the HPHA will request a fingerprint card and will request information from the National Crime Information center (NCIC).

PHAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 982.553(a)(2)(i)].

If the HPHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, the HPHA must notify the household of the proposed action and must
provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission. [24 CFR 5.903(f) and 5.905(d)].

Screening for Suitability as a Tenant [24 CFR 982.307]

The PHA has no liability or responsibility to the owner for the family’s behavior or suitability for tenancy. The PHA may opt to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

**HPHA Policy**

The HPHA will not conduct additional screening to determine an applicant family’s suitability for tenancy. However, non-HPHA owned properties may be subject to credit background checks and prior tenancy inquiries.

The owner is responsible for screening and selection of the family to occupy the owner’s unit. The PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner. An owner may consider a family’s history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

HUD requires the PHA to provide prospective owners with the family's current and prior address (as shown in PHA records) and the name and address (if known) of the owner at the family's current and prior addresses. HUD permits the PHA to provide owners with additional information, as long as families are notified that the information will be provided, and the same type of information is provided to all owners.

**HPHA Policy**

The HPHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information if requested, at the time of the initial HQS inspection or before. The HPHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.
3-III.E. CRITERIA FOR DECIDING TO DENY ASSISTANCE Evidence [24 CFR 982.553(c)]

**HPHA Policy**

The HPHA will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

*Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**Consideration of Circumstances [24 CFR 982.552(c)(2)]**

HUD authorizes the PHA to consider all relevant circumstances when deciding whether to deny assistance based on a family’s past history except in the situations for which denial of assistance is mandated (see Section 3-III.B).

**HPHA Policy**

The HPHA will consider the following factors prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.G) a victim of domestic violence, dating violence, or stalking
- The length of time since the violation occurred, the family’s recent history and the likelihood of favorable conduct in the future
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

The HPHA will require the applicant to submit evidence of the household member’s current participation in or successful completion of a supervised...
drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Removal of a Family Member's Name from the Application [24 CFR 982.552(c)(2)(ii)]

HUD permits PHAs to impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which results in the denial of assistance, to not reside in the unit.

**HPHA Policy**

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit.

After admission to the program, the family must present evidence of the former family member’s current address upon HPHA request.

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]

If the family includes a person with disabilities, the PHA’s decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

**HPHA Policy**

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, the HPHA will determine whether the behavior is related to the disability. If so, upon the family’s request, the HPHA will determine whether alternative measures are appropriate as a reasonable accommodation. The HPHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance. See Chapter 2 for a discussion of reasonable accommodation.

3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

If the family is eligible for assistance, the PHA will notify the family when it extends the invitation to attend the voucher briefing appointment, as discussed in Chapter 5.

If the PHA determines that a family is not eligible for the program for any reason, the family must be notified promptly. The notice must describe: (1) the reasons for which assistance has
been denied, (2) the family’s right to an informal review, and (3) the process for obtaining the informal review [24 CFR 982.554 (a)]. See Chapter 16, for informal review policies and procedures.

**HPHA Policy**

The family will be notified of a decision to deny assistance in writing within 10 business days of the determination.

If the PHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the PHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)]. The PHA must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with program requirements [24 CFR 982.553(d)].

**HPHA Policy**

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible the HPHA will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact the HPHA to dispute the information within that 10-day period, the HPHA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

Notice requirements related to denying assistance to noncitizens are contained in Section 3-II.B.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, or stalking are contained in Section 3-III.G.

**3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [24 CFR Part 5, Subpart L]**

The Violence against Women Reauthorization Act of 2005 (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking. Specifically, Section 606(4)(A) of VAWA adds the following provision to Section 8 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the housing choice voucher program:
That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate reason for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission [24 CFR 5.2005].

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation. HUD is the federal agency that oversees that the Housing Authority of the Borough of Highland Park (HPHA) is in compliance with VAWA. If you otherwise qualify for assistance under the Housing Choice Voucher (HCV)/Project Based Voucher Programs (PBV), you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. If you are receiving assistance under the HCV or PBV programs, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the HCV or PBV programs solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking. Affiliated individual means your spouse, parent, brother, sister, child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

HPHA Policy

HPHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking. If HPHA chooses to remove abuser or perpetrator, HPHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, HPHA must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or find alternative housing.

In order to divide the lease, the HPHA will ask you for documentation or certification of incidences of domestic violence, sexual assault, or stalking.
Eligibility for Emergency Transfers

Tenants may request an emergency transfer if they reasonably believe that there is a threat of imminent harm from further violence if the tenant remains in the same unit, or if the tenant is a victim of sexual assault if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer. Any tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan. (Tenants not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify HPHA’s management office and submit a written request for transfer to The HPHA Executive Director at the administrative office. The HPHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant’s written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under HPHA’s program; or
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant’s request for an emergency transfer.

All information regarding this type of transfer will be kept confidential, with information disclosed only as required by law or upon request of the tenant.

Definitions [24 CFR 5.2003]

As used in VAWA:

- The term *bifurcate* means, with respect to a Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members’ lease and occupancy rights are allowed to remain intact.
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.
The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

The term *stalking* means:
- To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
- To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
- In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

The term *immediate family member* means, with respect to a person:
- A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
- Any other person living in the household of that person and related to that person by blood and marriage.

**Notification**

**HPHA Policy**

The HPHA acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under the HPHA’s policies. Therefore, if the HPHA makes a determination to deny admission to an applicant family, the HPHA will include in its notice of denial:

- A statement of the protection against denial provided by VAWA
- A description of HPHA confidentiality requirements
A request that an applicant wishing to claim this protection submit to the HPHA documentation meeting the specifications below with her or his request for an informal review (see section 1 6-III.D)

**Documentation**

**Victim Documentation**

**HPHA Policy**

An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, or stalking must provide documentation (1) demonstrating the connection between the abuse and the unfavorable history and (2) naming the perpetrator of the abuse. The documentation may consist of any of the following:

- A statement signed by the victim certifying that the information provided is true and correct and that it describes bona fide incident(s) of actual or threatened domestic violence, dating violence, or stalking
- A police or court record documenting the domestic violence, dating violence, or stalking
- Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person’s belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

**Perpetrator Documentation**

**HPHA Policy**

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

- A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit
Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

**Time Frame for Submitting Documentation**

**HPHA Policy**

The applicant must submit the required documentation with her or his request for an informal review (see section 16-III.D) or must request an extension in writing at that time. If the applicant so requests, the HPHA will grant an extension of 10 business days, and will postpone scheduling the applicant’s informal review until after it has received the documentation or the extension period has elapsed. If after reviewing the documentation provided by the applicant the HPHA determines that the family is eligible for assistance, no informal review will be scheduled and the HPHA will proceed with admission of the applicant family.

**PHA Confidentiality Requirements [24 CFR 5.2007(a)(1)(v)]**

All information provided to the PHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

**HPHA Policy**

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the HPHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.
EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions:

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

  Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or

  In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

  (A) In General

  The term “developmental disability” means a severe, chronic disability of an individual that:

  (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;

  (ii) is manifested before the individual attains age 22;

  (iii) is likely to continue indefinitely;

  (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; and

  (v) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.
(B) Infants and Young Children

An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

Individual with Handicaps [24 CFR 8.3]

*Individual with handicaps* means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(1) Physical or mental impairment includes:

   (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

   (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism,
epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means:

(a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;

(b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

(c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

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**EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION**

| [20 U.S.C. 1001 and 1002] |

**Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance; Notice [Federal Register, April 10, 2006]**

*Institution of Higher Education* shall have the meaning given this term in the Higher Education Act of 1965 in 20 U.S.C. 1001 and 1002.

**Definition of “Institution of Higher Education” From 20 U.S. C. 1001**

(a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term “institution of higher education” means an educational institution in any State that

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which the institution awards a bachelor’s degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;
(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term “institution of higher education” also includes—

(1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and

(2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

**Definition of “Institution of Higher Education” From 20 U.S. C. 1002**

(a) Definition of institution of higher education for purposes of student assistance programs

(1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term “institution of higher education” for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title—

(A) A proprietary institution of higher education (as defined in subsection (b) of this section);

(B) A postsecondary vocational institution (as defined in subsection (c) of this section); and

(C) Only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as
defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.

(2) Institutions outside the United States

(A) In general. For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 1001 (a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless—

(i) In the case of a graduate medical school located outside the United States—

(1)(aa) At least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091 (a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and

(bb) At least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

(ii) The institution has a clinical training program that was approved by a State as of January 1, 1992; or

(B) Advisory panel

(i) In general. For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—
(I) Evaluate the standards of accreditation applied to applicant foreign medical schools; and

(II) Determine the comparability of those standards to standards for accreditation applied to United States medical schools.

(ii) Special rule if the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.

(C) Failure to release information. The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.

(D) Special rule. If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

(A) Offers more than 50 percent of such institution’s courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title;

(B) Enrolls 50 percent or more of the institution’s students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2- or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

(C) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor’s degree, or an associate’s degree or a postsecondary diploma, respectively; or

(D) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor’s degree or an associate’s degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the
Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

(4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

(A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution’s management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or

(B) The institution, the institution’s owner, or the institution’s chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(5) Certification. The Secretary shall certify an institution’s qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.

(6) Loss of eligibility. An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.

(b) Proprietary institution of higher education

(1) Principal criteria. For the purpose of this section, the term “proprietary institution of higher education” means a school that—

(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) Meets the requirements of paragraphs (1) and (2) of section 1001 (a) of this title;

(C) Does not meet the requirement of paragraph (4) of section 1001 (a) of this title;
(D) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;

(E) Has been in existence for at least 2 years; and

(F) Has at least 10 percent of the school’s revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.

(2) Additional institutions. The term “proprietary institution of higher education” also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) Postsecondary vocational institution.

(1) Principal criteria. For the purpose of this section, the term “postsecondary vocational institution” means a school that—

(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and

(C) Has been in existence for at least 2 years.

(2) Additional institutions. The term “postsecondary vocational institution” also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.
Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to receive Section 8 HCV tenant-based and project-based assistance, the family must submit an application that provides the PHA with the information needed to determine the family’s eligibility. HUD requires the PHA to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, the PHA must select families from the waiting list in accordance with HUD requirements and PHA policies as stated in the administrative plan and the annual plan.

The PHA is required to adopt a clear approach to accepting applications, placing families on the waiting list, selecting families from the waiting list and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the PHA to receive preferential treatment. Funding earmarked exclusively for families with particular characteristics may also alter the order in which families are served.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that the PHA affirmatively further fair housing goals in the administration of the program [24 CFR 982.53, HCV GB p. 4-1]. Adherence to the selection policies described in this chapter ensures that the PHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and PHA policies for taking applications, managing the waiting list and selecting families for HCV assistance. The policies outlined in this chapter are organized into three sections, as follows:

Part I: The Application Process. This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how the PHA will handle the applications it receives.

Part II: Managing the Waiting List. This part presents the policies that govern how the PHA’s waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for assistance. It also discusses the process the PHA will use to keep the waiting list current.

Part III: Selection for HCV Assistance. This part describes the policies that guide the PHA in selecting families for HCV assistance as such assistance becomes available. It also
specifies how in-person interviews will be used to ensure that the PHA has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide the PHA’s efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes the PHA’s obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

4-I.B. APPLYING FOR ASSISTANCE [HCV GB, pp. 4-11 – 4-16, Notice PIH 2009-36]

Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits the PHA to determine the format and content of HCV applications, as well as how such applications will be made available to interested families and how applications will be accepted by the PHA. However, the HPHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the PHA’s application.

HPHA Policy

Depending upon the length of time that applicants may need to wait to receive assistance, the HPHA may use a one- or two-step application process.

A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and level of assistance.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, the HPHA initially will require families to provide only the information needed to make an initial assessment of the family’s eligibility, and to determine the family’s placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

Families may obtain application forms when the waiting list is open for application. Notice that the list is open and instructions regarding how and where to obtain an application will be published in the newspaper(s) approved by the BOC and on the HPHA web page at least 10 business days prior to the date.
Completed applications will only be accepted in person at the designated time and location. Families not completing the application, or submitting all of the required documents, will be allowed thirty (30) days to provide the required information, or their application will be deemed ineligible.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

Elderly and Disabled Populations [24 CFR 8 and HCV GB, pp. 4-11 – 4-13]

The PHA must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard PHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). The PHA must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or the PHA must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of the PHA’s policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

PHAs are required to take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the PHA’s policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE WAITING LIST

The PHA must review each complete application received and make a preliminary assessment of the family’s eligibility. The PHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR 982.206(b)(2)]. Where the family is determined to be ineligible, the PHA must notify the family in writing [24 CFR 982.201(f)]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list [24 CFR 982.202(c)].

Ineligible for Placement on the W/L
HPHA Policy

If the HPHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, the HPHA will send written notification of the ineligibility determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 16).

Eligible for Placement on the Waiting List

HPHA Policy

The HPHA will send written notification of the preliminary eligibility determination.

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.

Applicants will be placed on the waiting list according to any preference(s) for which they qualify and applications will be selected by drawing or random choice technique. Whichever method is selected will be used for the duration of each period that applications are being accepted. When the HPHA opens the waiting list from time to time for particular preferences (in accordance with Chapter 4, Section III.C) applicants will be grouped by preference and then ordered by date and time of application. Such applicants will then be added to the waiting list which was originally selected and ordered by drawing or random choice.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

The PHA must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how a PHA may structure its waiting list and how families must be treated if they apply for assistance from a PHA that administers more than one assisted housing program.
4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205]

The PHA’s HCV waiting list must be organized in such a manner to allow the HPHA to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

The waiting list must contain the following information for each applicant listed:

- Applicant name;
- Family unit size;
- Date and time of application;
- Qualification for any local preference;
- Racial or ethnic designation of the head of household.

HUD requires the PHA to maintain a single waiting list for the HCV program unless it serves more than one county or municipality.

HPHA Policy

The HPHA will maintain a single waiting list for the HCV Tenant-Based program.

HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program the PHA operates if 1) the other programs’ waiting lists are open, and 2) the family is qualified for the other programs.

HUD permits, but does not require, that PHAs maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs.

A family’s decision to apply for, receive, or refuse other housing assistance must not affect the family’s placement on the HCV waiting list, or any preferences for which the family may qualify.

HPHA Policy

The HPHA will not merge the HCV waiting list with the waiting list for any other program the HPHA operates.

4-II.C. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206] Closing the Waiting List

The PHA is permitted to close the waiting list if it has an adequate pool of families to use its available HCV assistance. Alternatively, the PHA may elect to continue to accept applications only from certain categories of families that meet particular preferences or funding criteria.
HPHA Policy

The HPHA will close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches 24 months for the most current applicants. Where the HPHA has particular preferences or funding criteria that require a specific category of family, the HPHA may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

If the waiting list has been closed, it cannot be reopened until the PHA publishes a notice in local newspapers of general circulation, minority media, and other suitable media outlets. The notice must comply with HUD fair housing requirements and must specify who may apply, and where and when applications will be received.

HPHA Policy

The HPHA will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

The HPHA will give public notice by publishing the relevant information in suitable media outlets including, but not limited to:

- Newspaper approved by the BOC
- Notice to non-profit agencies

4-II.D. FAMILY OUTREACH [HCV GB, pp. 4-2 to 4-4]

The PHA must conduct outreach as necessary to ensure that the PHA has a sufficient number of applicants on the waiting list to use the HCV resources it has been allotted.

Because HUD requires the PHA to serve a specified percentage of extremely low income families (see Chapter 4, Part III), the PHA may need to conduct special outreach to ensure that an adequate number of such families apply for assistance [HCV GB, p. 4-20 to 4-21].

PHA outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class
PHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

**HPHA Policy**

The HPHA will advertise the opening of its waiting list in the newspaper approved by the BOC and will post the opening on the HPHA web page. The HPHA will also notify and provide application forms to other agencies that service low income populations.

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

**HPHA Policy**

While the family is on the waiting list, the family must immediately inform the HPHA of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing within 10 days of change.

4-II.F. UPDATING THE WAITING LIST [24 CFR 982.204]

HUD requires the PHA to establish policies to use when removing applicant names from the waiting list.

**Purging the Waiting List**

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to the PHA’s request for information or updates because of the family member’s disability, the PHA must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c) (2)].

**HPHA Policy**

The waiting list will periodically be updated to ensure that all applicants and applicant information is current and timely.
To update the waiting list, the HPHA will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the HPHA has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant’s name being removed from the waiting list.

The family’s response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by the HPHA not later than the due date listed on the HPHA letter.

If the family fails to respond by the due date, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will be notified of the due date to respond to the letter.

If a family is removed from the waiting list for failure to respond, the Executive Director may reinstate the family if s/he determines the lack of response was due to HPHA error, or to circumstances beyond the family’s control.

**Removal from the Waiting List**

**HPHA Policy**

If at any time an applicant family is on the waiting list, the HPHA determines that the family is not eligible for assistance (see Chapter 3), the family will be removed from the waiting list.

If a family is removed from the waiting list because the HPHA has determined the family is not eligible for assistance, a notice will be sent to the family’s address of record. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding the HPHA’s decision (see Chapter 16) [24 CFR 982.201(f)].
PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

The order in which families receive assistance from the waiting list depends on the selection method chosen by the PHA and is impacted in part by any selection preferences that the family qualifies for. The source of HCV funding also may affect the order in which families are selected from the waiting list.

The PHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the PHA’s selection policies [24 CFR 982.204(b) and 982.207(e)].

4-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 project). In these cases, the PHA may admit families that are not on the waiting list, or without considering the family’s position on the waiting list. The PHA must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

HUD may award the PHA funding for a specified category of families on the waiting list. The PHA must use this funding only to assist the families within the specified category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

HPHA Policy

The HPHA administers no type of targeted funding.

Regular HCV Funding

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in Section 4-III.C.
4-III.C. SELECTION METHOD

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use [24 CFR 982.202(d)].

Local Preferences [24 CFR 982.207; HCV p. 4-16]

PHAs are permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the PHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

**HPHA Policy**

The HPHA will offer a preference and selection from the waiting list will be prioritized according to the following list. Selection from the list shall be made without regard to race, creed, color, religion, sex, handicap, national origin, familial status, or sexual orientation.

- Residency Preference, Veteran/Active Serviceperson Preference, Working Family Preference, (This preference is also afforded to any senior or disabled family), and Homeless Preference.

Criteria to be applied for the local preferences are described in the following paragraphs.

**Residency Preference**

This preference applies to applicants who are residents of the HPHA’s jurisdiction. “Resident” shall mean a person who currently lives, works, or has been hired to work within the HPHA’s area of jurisdiction. This preference category is worth 5 points.

**Veteran/Active Serviceperson Preference**

This preference applies to applicants who are veterans or active servicepersons. “Veteran” shall mean:

- A head of household;
- A spouse of the head of household;
• A divorced spouse of an individual;
• A widow of an individual; or
• A widower of an individual.

who has been honorably discharged from a branch of the military service of the United States of America or is a reservist or a National Guardsman, after serving at least 182 consecutive days, and whose discharge can be confirmed by submission of a Department of Defense (DoD) Form 214. The discharge must be classified as “general” or better.

“Active Serviceperson” shall mean an individual currently serving in a branch of the military forces, including a reservist or National Guardsman, to the United States of America and who has served at least 182 consecutive days. This preference category is worth 1 point.

**Working Family Preference**

This preference is provided to families where the head, spouse, or co-head is gainfully employed for a minimum of 21 hours per week. This preference is afforded to all elderly and disabled families. This preference category is worth 1 point.

**Homeless Preference**

This preference is provided to families who are homeless, which is defined by HUD regulation as families lacking a fixed, regular and adequate applicants lacking a fixed, regular, or adequate nighttime residence. This would include:

1. Persons whose primary nighttime residence is a publicly or privately operated shelter or hotel/motel, institutionalized persons and persons regularly spending their nights in public or private places that are not ordinarily used as regular sleeping accommodations for human beings. A homeless family does not include any person imprisoned or otherwise detained pursuant to an Act of Congress or a State law or persons living with family members. The documentation that will serve as proof of homeless status includes letters from a social service agency/shelter or hotel/motel receipts.
2. Those who face imminent loss of their primary nighttime residence. A court documented eviction notice, or documentation that a family’s dwelling has been destroyed, or is scheduled for demolition.
3. Those who are unaccompanied youth and homeless families with children and youth who are defined as homeless under other federal laws who do not otherwise qualify as homeless under the definition. Certified documentation must be presented for review by the ED.
4. Those who are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against them that has either taken place within their primary nighttime residence, or has made them afraid to return to their primary nighttime residence, and who have no other residence and lack the resources or support networks to obtain other permanent housing. Applicant must supply supporting police reports, or other substantial documentation to support this claim.

This preference category is worth 1 point.

A family not residing in a shelter can receive the preference for homelessness if they are able to provide documentation from a local, county, state, or federal agency that their residence was lost as a result of any of the following:

- Disaster such as fire or flood, resulting in extensive damage or destroying the unit;
- An activity carried on by an agency of the United States or State or by a local governmental body or agency in connection with code enforcement, of public improvement, or development program;
- Family members have provided information on criminal activities to a law enforcement agency and based on a threat assessment, the law enforcement agency recommended re-housing the family to avoid or minimize a risk of violence against the family members as reprisal for providing such information;
- The applicant has vacated a housing unit because one or more members of the applicant’s family have been the victim of one or more hate crimes. The hate crime(s) must be recent (within the last three years) or is of a continuing nature. The definition of a hate crime is actual or threatened physical violence or intimidation that is directed against a person or his/her property and that is based on the person’s race, color, religion, sex or sexual orientation, national origin, handicap, or familial status;
- An action by an owner which resulted in the applicant having to vacate his/her unit, where:
  1. The reason for the owner’s action was beyond the applicant’s ability to control or prevent.
  2. The action occurred despite the applicant having met all previously imposed conditions of occupancy.
  3. The action was taken for a reason other than a rent increase.

An applicant will be afforded this preference if he/she is not living in a safe, standard housing unit at the time of admission to the program. Temporary residence with family members or friends does not qualify a family as homeless.
**Preference Certification**

Certification as to the situation that qualifies a family for a local preference shall be required during the application process.

**Income Targeting Requirement [24 CFR 982.201(b)(2)]**

HUD requires that extremely low-income (ELI) families make up at least 75% of the families admitted to the HCV program during the HPHA’s fiscal year. ELI families are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, the HPHA may skip non-ELI families on the waiting list in order to select an ELI family.

Low income families admitted to the program that are “continuously assisted” under the 1937 Housing Act [24 CFR 982.4(b)], as well as low-income or moderate-income families admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes [24 CFR 982.201(b)(2)(v)].

**HPHA Policy**

The HPHA will monitor progress in meeting the ELI requirement throughout the fiscal year. Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income targeting requirement is met.

**Order of Selection**

The PHA system of preferences may select families either according to the date and time of application, or by a random selection process [24 CFR 982.207(c)]. When selecting families from the waiting list, PHAs are required to use targeted funding to assist only those families who meet the specified criteria, and PHAs are not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

**HPHA Policy**

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with the HPHA’s hierarchy of preferences, if applicable. Within each targeted funding or preference category, families will be selected by drawing or random choice technique. Documentation will be maintained by the HPHA as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the HPHA does not have to ask higher placed families each time targeted selections are made.
4-III.D. NOTIFICATION OF SELECTION

When a family has been selected from the waiting list, the HPHA must notify the family.

**HPHA Policy**

The HPHA will notify the family by first class mail when it is selected from the waiting list. The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview
- Who is required to attend the interview
- Documents that must be provided at the interview to document the legal identity of household members, including information about HPHA constitutes acceptable documentation
- Other documents and information that should be brought to the interview

If a notification letter is returned to the HPHA with no forwarding address, the family will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family’s address of record.

4-III.E. THE APPLICATION INTERVIEW

HUD recommends that the HPHA obtain the information and documentation needed to make an eligibility determination through a private interview [HCV GB, pg. 4-16]. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the HPHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the HPHA [Notice PIH 2010-3].

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability.

**HPHA Policy**

Families selected from the waiting list are required to participate in an eligibility interview.

The head of household, spouse/cohead, and all adult members of the household will be
strongly encouraged to attend the interview together. However, either the head of household or the spouse/co-head must attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the HPHA.

The interview will be conducted only if the head of household or spouse/co-head provides appropriate documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

Pending disclosure and documentation of social security numbers, the HPHA will allow the family to retain its place on the waiting list for 60 days. If not all household members have disclosed their SSNs at the next time the HPHA is issuing vouchers, the HPHA will issue a voucher to the next eligible applicant family on the waiting list.

The family must provide the information necessary to establish the family’s eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, the HPHA will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 7 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English. For limited English proficient (LEP) applicants, the HPHA will provide translation services in accordance with the HPHA’s LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the HPHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the HPHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without HPHA approval will be denied assistance based on the family’s failure to supply information.
needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.

**4-III.F. COMPLETING THE APPLICATION PROCESS**

The HPHA must verify all information provided by the family (see Chapter 7). Based on verified information, the HPHA must make a final determination of eligibility (see Chapter 3) and must confirm that the family qualified for any special admission, targeted admission, or selection preference that affected the order in which the family was selected from the waiting list.

**HPHA Policy**

If the HPHA determines that the family is ineligible, the HPHA will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. targeted funding, extremely low-income), the family will be returned to its original position on the waiting list. The HPHA will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

If the HPHA determines that the family is eligible to receive assistance, the HPHA will invite the family to attend a briefing in accordance with the policies in Chapter 5.
Chapter 5

BRIEFINGS AND VOUCHER ISSUANCE

INTRODUCTION

This chapter explains the briefing and voucher issuance process. When a family is determined to be eligible for the Housing Choice Voucher (HCV) program, the HPHA must ensure that the family fully understands the way the program operates and the family’s obligations under the program. This is accomplished through both an oral briefing and provision of a briefing packet containing written documentation of information the family needs to know. Once the family is fully informed of the program’s requirements, the HPHA issues the family a voucher. The voucher includes the unit size the family qualifies for based on the HPHA’s subsidy standards, as well as the dates of issuance and expiration of the voucher. The voucher is the document that permits the family to begin its search for a unit, and limits the amount of time the family has to successfully locate an acceptable unit.

This chapter describes HUD regulations and PHA policies related to these topics in two parts:

**Part I: Briefings and Family Obligations.** This part details the program’s requirements for briefing families orally, and for providing written materials describing the program and its requirements. It includes a particular focus on the family’s obligations under the program.

**Part II: Subsidy Standards and Voucher Issuance.** This part discusses the HPHA’s standards for determining how many bedrooms a family of a given composition qualifies for, which in turn affects the amount of subsidy the family can receive. It also discusses the policies that dictate how vouchers are issued, and how long families have to locate a unit.

PART I: BRIEFINGS AND FAMILY OBLIGATIONS 5-I.A.

OVERVIEW

HUD regulations require the HPHA to conduct mandatory briefings for applicant families. The briefing provides a broad description of owner and family responsibilities, explains the HPHA’s procedures, and includes instructions on how to lease a unit. This part describes how oral briefings will be conducted, specifies HPHA written information will be provided to families, and lists the family’s obligations under the program.
5-I.B. BRIEFING [24 CFR 982.301]

The HPHA must give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed individually or in groups. At the briefing, the HPHA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973), and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

HPHA Policy

Briefings will usually be conducted in group meetings.

Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, the HPHA may approve another adult family member to attend the briefing.

Families that attend group briefings and still need individual assistance will be referred to an appropriate HPHA staff person.

Briefings will be conducted in English. For limited English proficient (LEP) applicants, the HPHA will provide translation services in accordance with the HPHA’s LEP plan (See Chapter 2).

Notification and Attendance

HPHA Policy

Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.

If the notice is returned by the post office with no forwarding address, the applicant will be denied and their name will not be placed back on the waiting list. If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated.

Applicants who fail to attend a scheduled briefing without good cause will automatically be removed from the waiting list.
Oral Briefing [24 CFR 982.301(a)]

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the HPHA’s jurisdiction;
- For families eligible under portability, an explanation of portability. The HPHA cannot discourage eligible families from moving under portability; (Applicants must have resided in Woodbridge at the time of application to be eligible for immediate portability)
- For families living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations; and
- For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

Applicants where all family members are 62 years of age or older will be advised of their eligibility for inclusion on the Project-Based Voucher (PBV) waiting list, which is maintained for leasing in the 35 PBV units at Maple Tree Manor

HPHA Policy

When HPHA-owned units are available for lease, the HPHA will inform the family during the oral briefing that the family has the right to select any eligible unit available for lease, and is not obligated to choose a HPHA-owned unit.

Briefing Packet [24 CFR 982.301(b)]

Documents and information provided in the briefing packet must include the following:

- The term of the voucher, and the HPHA’s policies on any extensions or suspensions of the term. If the HPHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the HPHA determines the payment standard for a family, how the HPHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the HPHA determines the maximum allowable rent for an assisted unit.
• Where the family may lease a unit. For a family that qualifies to lease a unit outside the HPHA jurisdiction under portability procedures, the information must include an explanation of how portability works.

• The HUD-required tenancy addendum, which must be included in the lease.

• The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.

• A statement of the HPHA policy on providing information about families to prospective owners.

• The HPHA subsidy standards including when and how exceptions are made.

• The HUD brochure on how to select a unit.

• The HUD pamphlet on lead-based paint entitled Protect Your Family from Lead in Your Home.

• Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.

• A list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration.

• Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the HPHA.

• The family obligations under the program, including any obligations of a welfare-to-work family.

• The grounds on which the HPHA may terminate assistance for a participant family because of family action or failure to act.

• HPHA informal hearing procedures including when the HPHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

If the PHA is located in a metropolitan FMR area, the following additional information must be included in the briefing packet in order to receive full points under SEMAP Indicator 7, Expanding Housing Opportunities [24 CFR 985.3(g)]:

• Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction

• Information about the characteristics of these areas including job opportunities, schools, transportation, and other services

• An explanation of how portability works, including a list of portability contact persons for neighboring PHAs with names, addresses, and telephone numbers
Additional Items to be Included in the Briefing Packet

In addition to items required by the regulations, PHAs may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB p. 8-7, Notice PIH 2010-19].

HPHA Policy

The HPHA will provide the following additional materials in the briefing packet:

- When HPHA-owned units are available for lease, a written statement that the family has the right to select any eligible unit available for lease and is not obligated to choose a HPHA-owned unit.
- Information on how to fill out and file a housing discrimination complaint form.
- “Is Fraud Worth It?” (form HUD-1141-OIG) which explains the types of actions a family must avoid and the penalties for program abuse.
- “HPHA You Should Know About EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19.

5-I.C. FAMILY OBLIGATIONS

Obligations of the family are described in the housing choice voucher (HCV) regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The HPHA must inform families of these obligations during the oral briefing, and the same information must be included in the briefing packet. When the family’s unit is approved and the HAP contract is executed, the family must meet those obligations in order to continue participating in the program. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

Time Frames for Reporting Changes Required By Family Obligations

HPHA Policy

Unless otherwise noted below, when family obligations require the family to respond to a request or notify the HPHA of a change, notifying the HPHA of the request or change within 10 business days is required.

When a family is required to provide notice to the HPHA, the notice must be in writing.
Family Obligations [24 CFR 982.551]

Following is a listing of a participant family’s obligations under the HCV program:

- The family must supply any information that the HPHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the HPHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

**HPHA Policy**

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit. In HPHA owned units where the security deposit is not sufficient to cover tenant caused damages, the family will be billed additionally either at the time of the repair or at the time of move-out.

- The family must allow the HPHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

**HPHA Policy**

The HPHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner’s notice to evict.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.
The family must notify the HPHA and the owner before moving out of the unit or terminating the lease.

**HPHA Policy**

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the HPHA at the same time the owner is notified.

- The family must promptly give the HPHA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family’s only residence.
- The composition of the assisted family residing in the unit must be approved by the HPHA. The family must promptly notify the HPHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request HPHA approval to add any other family member as an occupant of the unit.

**HPHA Policy**

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The HPHA will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the HPHA in writing if any family member no longer lives in the unit.
- If the HPHA has given approval, a foster child or a live-in aide may reside in the unit. The HPHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when HPHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

**HPHA Policy**

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the HPHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the HPHA when the family is absent from the unit.
HPHA Policy

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the HPHA at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and HPHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and HPHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the HPHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]
PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE 5-II.A.

OVERVIEW

The HPHA must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies that will be used to determine the family unit size (also known as the voucher size) a particular family should receive, and the policies that govern making exceptions to those standards. The HPHA also must establish policies related to the issuance of the voucher, to the voucher term, and to any extensions or suspensions of that term.

5-II.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

For each family, the HPHA determines the appropriate number of bedrooms under the HPHA subsidy standards and enters the family unit size on the voucher that is issued to the family. The family unit size does not dictate the size of unit the family must actually lease, nor does it determine who within a household will share a bedroom/sleeping room.

The following requirements apply when the HPHA determines family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by the HPHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the HPHA subsidy standards.
The HPHA will assign one bedroom for each two persons within the household, except in the following circumstances:

Live-in aides will be allocated a separate bedroom. Single person families will be allocated one bedroom.

The HPHA will reference the following chart in determining the appropriate voucher size for a family:

<table>
<thead>
<tr>
<th>Voucher Size</th>
<th>Persons in Household (Minimum – Maximum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Bedroom</td>
<td>1-2</td>
</tr>
<tr>
<td>2 Bedrooms</td>
<td>2-4</td>
</tr>
<tr>
<td>3 Bedrooms</td>
<td>3-6</td>
</tr>
<tr>
<td>4 Bedrooms</td>
<td>4-8</td>
</tr>
<tr>
<td>5 Bedrooms</td>
<td>5-10</td>
</tr>
<tr>
<td>6 Bedrooms</td>
<td>6-12</td>
</tr>
</tbody>
</table>

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

In determining family unit size for a particular family, the HPHA may grant an exception to its established subsidy standards if the HPHA determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances [24 CFR 982.402(b)(8)]. Reasons may include, but are not limited to:

- A need for an additional bedroom for medical equipment
- A need for a separate bedroom for reasons related to a family member’s disability, medical or health condition

For a single person who is not elderly, disabled, or a remaining family member, an exception cannot override the regulatory limit of a zero or one bedroom [24 CFR 982.402(b)(8)].
HPHA Policy

The HPHA will consider granting an exception for any of the reasons specified in the regulation: the age, sex, health, handicap, or relationship of family members or other personal circumstances.

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability-related request for accommodation is readily apparent or otherwise known. The family’s continued need for an additional bedroom due to special medical equipment must be re-verified at annual reexamination.

The HPHA will notify the family of its determination within 10 business days of receiving the family’s request. If a participant family’s request is denied, the notice will inform the family of their right to request an informal hearing.

Unless funding becomes prohibitive, the HPHA will provide for separate bedrooms for children of the opposite sex, or for children of the same sex, but with more than an eight (8) year age difference.

5-II.D. VOUCHER ISSUANCE [24 CFR 982.302]

When a family is selected from the waiting list (or as a special admission as described in Chapter 4), or when a participant family wants to move to another unit, the HPHA issues a Housing Choice Voucher, form HUD-52646. This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.

The voucher is the family’s authorization to search for housing. It specifies the unit size for which the family qualifies, and includes both the date of voucher issuance and date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence that the HPHA has determined the family to be eligible for the program, and that the HPHA expects to have money available to subsidize the family if the family finds an approvable unit. However, the HPHA does not have any liability to any party by the issuance of the voucher, and the voucher does not give the family any right to participate in the HPHA’s housing choice voucher program [Voucher, form HUD-52646]

A voucher can be issued to an applicant family only after the HPHA has determined that the family is eligible for the program based on information received within the 60 days prior to issuance [24 CFR 982.201(e)] and after the family has attended an oral briefing [HCV 8-1].
Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

The HPHA should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, the HPHA must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10].

Prior to issuing any vouchers, the HPHA will determine whether it has sufficient funding in accordance with the policies in Part VIII of Chapter 16.

If the HPHA determines that there is insufficient funding after a voucher has been issued, the WHA may rescind the voucher and place the affected family back on the waiting list.

Voucher Term [24 CFR 982.303]

The initial term of a voucher must be at least 60 calendar days. The initial term must be stated on the voucher [24 CFR 982.303(a)].

The initial voucher term will be 60 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless the HPHA grants an extension.

Extensions of Voucher Term [24 CFR 982.303(b)]

The HPHA has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. There is no limit on the number of extensions that the HPHA can approve. Discretionary policies related to extension and expiration of search time must be described in the HPHA’s administrative plan [24 CFR 982.54].

PHAs must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.
The family must be notified in writing of the HPHA’s decision to approve or deny an extension. The HPHA’s decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

**HPHA Policy**

The HPHA may approve more than 2 30-day extensions upon written request from the family for good cause, such as:

- Reasonable accommodation for a person with disabilities.
- Reasons beyond the family’s control, as determined by the HPHA. Following is a list of extenuating circumstances that the HPHA may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:
  - Serious illness or death in the family
  - Other family emergency
  - Obstacles due to employment
  - Whether the family has already submitted requests for tenancy approval that were not approved by the HPHA
  - Whether family size or other special requirements make finding a unit difficult

Any request for an additional extension must include the reason(s) an additional extension is necessary. The HPHA may require the family to provide documentation to support the request.

All requests for extensions to the voucher term must be made in writing and submitted to the HPHA prior to the expiration date of the voucher (or extended term of the voucher).

The HPHA will decide whether to approve or deny an extension request within 10 business days of the date the request is received, and will immediately provide the family written notice of its decision. The HPHA’s decision is not subject to informal review. [24 CFR 982.554(c)(4)]

**Suspensions of Voucher Term [24 CFR 982.303(c)]**

At its discretion, the HPHA may adopt a policy to suspend the housing choice voucher term if the family has submitted a Request for Tenancy Approval (RFTA) during the voucher term. “Suspension” means stopping the clock on a family’s voucher term from the time a family
submits the RFTA until the time the HPHA approves or denies the request [24 CFR 982.4]. The HPHA’s determination not to suspend a voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

**HPHA Policy**

When a Request for Tenancy Approval and proposed lease is received by the HPHA, the term of the voucher will not be suspended while the HPHA processes the request.

**Expiration of Voucher Term**

Once a family’s housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the HPHA may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

**HPHA Policy**

If an applicant family’s voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RFTA), the HPHA will require the family to reapply for assistance. If an RFTA that was submitted prior to the expiration date of the voucher is subsequently disapproved by the HPHA (after the voucher term has expired), the family will be permitted an additional 30 days to submit an acceptable RFTA.

Within 10 business days after the expiration of the voucher term or any extension, the HPHA will notify the family in writing that the voucher term has expired and that the family must reapply in order to be placed on the waiting list.
Chapter 6

INCOME AND SUBSIDY DETERMINATIONS
[24 CFR Part 5, Subparts E and F; 24 CFR 982]

INTRODUCTION

A family’s income determines eligibility for assistance and is also used to calculate the family’s payment and the HPHA’s subsidy. The HPHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and PHA policies related to these topics in three parts as follows:

- **Part I: Annual Income.** HUD regulations specify the sources of income to include and exclude to arrive at a family’s annual income. These requirements and PHA policies for calculating annual income are found in Part I.

- **Part II: Adjusted Income.** Once annual income has been established HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and PHA policies for calculating adjusted income are found in Part II.

- **Part III: Calculating Family Share and PHA Subsidy.** This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining PHA subsidy and required family payment.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

The general regulatory definition of *annual income* shown below is from 24 CFR 5.609.
5.609 Annual income.

(a) Annual income means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph [5.609(c)].

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- Earned Income Disallowance for Persons with Disabilities (Exhibit 6-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6-5)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary some HPHA by family member. The chart below summarizes how family composition affects income determinations.
### Summary of Income Included and Excluded by Person

<table>
<thead>
<tr>
<th>Live-in aides</th>
<th>Income from all sources is excluded [24 CFR 5.609(c)(5)].</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foster child or foster adult</td>
<td>Income from all sources is excluded [24 CFR 5.609(c)(2)].</td>
</tr>
<tr>
<td>Head, spouse, or co-head Other adult family members</td>
<td>All sources of income not specifically excluded by the regulations are included.</td>
</tr>
</tbody>
</table>
| Children under 18 years of age | Employment income is excluded [24 CFR 5.609(c)(1)].  
All other sources of income, except those specifically excluded by the regulations, are included. |
| Full-time students 18 years of age or older (not head, spouse, or co-head) | Employment income above $480/year is excluded [24 CFR 5.609(c)(1 1)].  
All other sources of income, except those specifically excluded by the regulations, are included. |

### Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

**HPHA Policy**

Generally an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

### Absent Students

**HPHA Policy**

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information
becomes available to the HPHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

**Absences Due to Placement in Foster Care**

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

**HPHA Policy**

If a child has been placed in foster care, the HPHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

**Absent Head, Spouse, or Co-head**

**HPHA Policy**

An employed head, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

**Family Members Permanently Confined for Medical Reasons**

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB, p. 5-22].

**HPHA Policy**

The HPHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if
the remaining head, spouse, or co-head qualifies as an elderly person or a person with disabilities.

**Joint Custody of Dependents**

**HPHA Policy**

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family at least 51% of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the HPHA will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

**Caretakers for a Child**

**HPHA Policy**

If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the HPHA will take the following actions.

1. If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

2. If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker’s role is temporary. In such cases the HPHA will extend the caretaker’s status as an eligible visitor.

3. At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.

4. During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.
6-I.C. ANTICIPATING ANNUAL INCOME

The HPHA is required to count all income “anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date” [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

Basis of Annual Income Projection

The HPHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the HPHA to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- The HPHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

PHAs are required to use HUD’s Enterprise Income Verification (EIV) system in its entirety as a third party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.23 3(a)(2)].

HUD allows PHAs to use pay-stubs to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the PHA does not determine it is necessary to obtain additional third-party data.

HPHA Policy

When EIV is obtained and the family does not dispute the EIV employer data, the HPHA will use current tenant-provided documents to project annual income. When the tenant provided documents are pay stubs, the HPHA will make every effort to obtain current and consecutive pay stubs dated within the last 60 days.

The HPHA will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

  - If EIV or other UIV data is not available,
  - If the family disputes the accuracy of the EIV employer data,
  - and/or if the HPHA determines additional information is needed.

In such cases, the HPHA will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason
for the decision, and a clear audit trail will be left as to how the HPHA annualized projected income.

When the HPHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the HPHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the HPHA to show why the historic pattern does not represent the family’s anticipated income.

**Known Changes in Income**

If the HPHA verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

**Example:** An employer reports that a full-time employee who has been receiving $8/hour will begin to receive $8.25/hour in the eighth week after the effective date of the reexamination. In such a case the HPHA would calculate annual income as follows: ($8/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the HPHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the HPHA’s policy on reexaminations does not require interim reexaminations for other types of changes.

When tenant-provided documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.

EIV quarterly wages will not be used to project annual income at an annual or interim reexamination.

**Projecting Income**

In HUD’s EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual income.
6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation

The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income [24 CFR 5.609(b)(1)].

HPHA Policy

For persons who regularly receive bonuses or commissions, the HPHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the HPHA will use the prior year amounts. In either case the family may provide, and the HPHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the HPHA will count only the amount estimated by the employer. The file will be documented appropriately.

Some Types of Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

Types of Earned Income Not Counted in Annual Income Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]

This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days [Notice PIH 2009-19].

HPHA Policy

Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.
Children's Earnings

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income [24 CFR 5.609(c)(1)]. (See Eligibility chapter for a definition of foster children.)

Certain Earned Income of Full-Time Students

Earnings in excess of $480 for each full-time student 18 years old or older (except for the head, spouse, or co-head) are not counted [24 CFR 5.609(c)(11)]. To be considered “full-time,” a student must be considered “full-time” by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

Income of a Live-in Aide

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

Income Earned under Certain Federal Programs

Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c)(17)], including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b))
- Awards under the federal work-study program (20 U.S.C. 1087 uu)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

Resident Service Stipend

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed $200 per individual per month) received by a resident for performing a service for the HPHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a
member of the HPHA’s governing board. No resident may receive more than one such stipend during the same period of time [24 CFR 5.600(c)(8)(iv)].

State and Local Employment Training Programs

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

HPHA Policy

The HPHA defines training program as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period to time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].

The HPHA defines incremental earnings and benefits as the difference between: (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program, and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, the HPHA will use as the pre-enrollment income the total annualized amount of the family member’s welfare assistance and earnings reported on the family’s most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the HPHA's interim reporting requirements.

HUD-Funded Training Programs
Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

**HPHA Policy**

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

**Earned Income Tax Credit**

Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee’s payroll check.

**Earned Income Disallowance**

The earned income disallowance for persons with disabilities is discussed in section 6-I.E below.

**6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617]**

The earned income disallowance (EID) encourages people with disabilities to enter the workforce by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 5.617 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

**Eligibility**

This disallowance applies only to individuals in families already participating in the HCV program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.

- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
• New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.

**Calculation of the Disallowance**

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member’s current income with his or her “prior income.”

**HPHA Policy**

The HPHA defines prior income, or prequalifying income, as the family member’s last certified income prior to qualifying for the EID.

The family member’s prior, or prequalifying, income remains constant throughout the period that he or she is receiving the EID.

**Initial 12-Month Exclusion**

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months must be consecutive. Should the employment generating the increase in income cease, the income exclusion (EID) ends.

**HPHA Policy**

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

**Second 12-Month Exclusion and Phase-In**

During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. This second 12 months must be consecutive commencing immediately upon conclusion of the first 12 months.

**Lifetime Limitation**

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. Any cessation of
employment during the 24-month period will result in a loss of the benefit. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

**HPHA Policy**

During the 24-month eligibility period, the HPHA will schedule and conduct an interim reexamination each time there is a change in the family member’s annual income that affects or is affected by the EID (e.g., when the family member’s income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]

Annual income includes “the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family” [24 CFR 5.609(b)(2)].

**Business Expenses**

Net income is “gross income less business expense” [HCV GB, p. 5-19].

**HPHA Policy**

To determine business expenses that may be deducted from gross income, the HPHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

**Business Expansion**

HUD regulations do not permit the HPHA to deduct from gross income expenses for business expansion.

**HPHA Policy**

*Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations.
For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

**Capital Indebtedness**

HUD regulations do not permit the HPHA to deduct from gross income the amortization of capital indebtedness.

**HPHA Policy**

*Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the HPHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

**Negative Business Income**

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

**Withdrawal of Cash or Assets from a Business**

HUD regulations require the HPHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

**HPHA Policy**

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of $2,000 to help a business get started, the HPHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

**Co-ownership**

**HPHA Policy**

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family’s share of the income is lower than its share of ownership, the family must document the reasons for the difference.
6-I.G. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

Overview

There is no asset limitation for participation in the HCV program. However, HUD requires that the HPHA include in annual income the “interest, dividends, and other net income of any kind from real or personal property” [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the HPHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of net family assets. This section begins with a discussion of general policies related to assets and then provides HUD rules and HPHA policies related to each type of asset.

General Policies

Income from Assets

The HPHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the HPHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the HPHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the HPHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

HPHA Policy

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the HPHA to show why the asset income determination does not represent the family’s anticipated asset income.
Valuing Assets

The calculation of asset income sometimes requires the HPHA to make a distinction between an asset’s market value and its cash value.

- The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

HPHA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28].

Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs]. (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

Imputing Income from Assets [24 CFR 5. 609(b) (3) ]

When net family assets are $5,000 or less, the HPHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of $5,000, the HPHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.

Determining Actual Anticipated Income from Assets

It may or may not be necessary for the HPHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property’s market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.
Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

Jointly Owned Assets

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes “amounts derived (during the 12-month period) from assets to which any member of the family has access.”

HPHA Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the HPHA will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the HPHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the HPHA will prorate the asset evenly among all owners.

Assets Disposed Of for Less than Fair Market Value [24 CFR 5.603(b)]

HUD regulations require the HPHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

The HVC Guidebook permits the HPHA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

HPHA Policy

The HPHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual re-certifications, the family may request an interim re-certification to eliminate consideration of the asset(s).
Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

**Separation or Divorce**

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

**HPHA Policy**

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

**Foreclosure or Bankruptcy**

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

**Family Declaration**

**HPHA Policy**

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The HPHA may verify the value of the assets disposed of if other information available to the HPHA does not appear to agree with the information reported by the family.

**Types of Assets**

**Checking and Savings Accounts**

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.
**HPA Policy**

In determining the value of a checking account, the HPA will use the average monthly balance for the last six months.

In determining the value of a savings account, the HPA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, the HPA will multiply the value of the account by the current rate of interest paid on the account.

**Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds**

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

**HPA Policy**

In determining the market value of an investment account, the HPA will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the HPA will calculate asset income based on the earnings for the most recent reporting period.

**Equity in Real Property or Other Capital Investments**

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b)]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]
- Equity in real property when a family member’s main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

**HPHA Policy**

In the case of capital investments owned jointly with others not living in a family’s unit, a prorated share of the property’s cash value will be counted as an asset unless the HPHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

**Trusts**

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

**Revocable Trusts**

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

**Non-revocable Trusts**
In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

**Retirement Accounts**

*Company Retirement/Pension Accounts*

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the HPHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

**IRA, Keogh, and Similar Retirement Savings Accounts**

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

**Personal Property**

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

**HPHA Policy**

In determining the value of personal property held as an investment, the HPHA will use the family’s estimate of the value. The HPHA may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family’s estimated value is off by $50 or more. The family must cooperate with the appraiser, but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal
property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR -5.603(b)].

**HPHA Policy**

Necessary personal property consists of only those items not held as an investment, and may include clothing, furniture, household furnishings, jewelry, and vehicles.

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**Life Insurance**

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy is included in the calculation of the value of the family’s assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

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**6-I.H. PERIODIC PAYMENTS**

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

**Periodic Payments Included in Annual Income**

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b) (4) and (b)(3)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b) (4) and HCV, p. 5-14].

**Lump-Sum Payments for the Delayed Start of a Periodic Payment**

Most lump-sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the
delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b)(4)]. Additionally, any deferred disability benefits that are received in a lump-sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [FR Notice 11/24/08].

**HPA Policy**

When a delayed-start payment is received and reported during the period in which the HPA is processing an annual reexamination, the HPA will adjust the family share and HPA subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the HPA.

Unemployment benefits represent a decrease in income from wages and therefore, result in the rent change taking effect on the first day of the month following the date the employment ended. While income may be adjusted to zero until the first benefit payment is received, it will later be adjusted since the initial benefit payment will be made retroactively to the first date of unemployment.

**Treatment of Overpayment Deductions from Social Security Benefits**

The HPA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the HPA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2010-3].

**Periodic Payments Excluded from Annual Income**

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [Notice PIH 2008-30].

**HPA Policy**
The HPHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)].
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)].
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)].
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. Note: EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump-sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [FR Notice 11/24/08].

6-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker’s compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].
Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

The HPHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, the HPHA must include in annual income “imputed” welfare income. The HPHA must request that the welfare agency inform the HPHA when the benefits of an HCV participant family are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

Offsets

The amount of the imputed income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]
Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

**Alimony and Child Support**

The HPHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

**HPHA Policy**

The HPHA will count court-awarded amounts for alimony and child support unless the HPHA verifies that: (1) the payments are not being made, and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

**Regular Contributions or Gifts**

The HPHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

**HPHA Policy**

Examples of regular contributions include: (1) regular payment of a family’s bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) “in-kind” contributions such as groceries and clothing provided to a family on a regular basis.

Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by the HPHA. For contributions that may vary from month to month (e.g., utility payments), the HPHA will include an average amount based upon past history.
In 2005, Congress passed a law (for section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

**Student Financial Assistance Included in Annual Income [24 CFR 5.609(b)(9) and FR 4/10/06]**

The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based certificate program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age OR they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of tuition received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, the HPHA will use the definitions of dependent child, institution of higher education, and parents in Section 3-II.E, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- **Assistance from private sources** means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- **Tuition** will have the meaning given this term by the institution of higher education in which the student is enrolled.

**Student Financial Assistance Excluded from Annual Income [24 CFR 5.609(c)(6)]**

Any student financial assistance not subject to inclusion under 24 CFR 5.609(b)(9) is fully excluded from annual income under 24 CFR 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:
• Students residing with parents who are seeking or receiving Section 8 assistance
• Students who are enrolled in an educational institution that does not meet the 1965 HEA definition of institution of higher education
• Students who are over 23 AND have at least one dependent child, as defined in Section 3-II.E
• Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter include the following:

• Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
• Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
• Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
• Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
• Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]
• Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
• Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
• Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:
  (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
  (b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
  (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
  (d) Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
(c) Payments or allowances made under the Department of Health and Human Services’ Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))

(f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).)

(g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)

(h) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)

(i) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

(j) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent- product liability litigation, M.D.L. No. 381 (E.D.N.Y.)

(k) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)

(l) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)

(m) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))

(n) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-43 3)

(o) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))

(p) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805)

(q) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
(r) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family’s adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [HPHA] must deduct the following amounts from annual income:

(1) $480 for each dependent;

(2) $400 for any elderly family or disabled family;

(3) The sum of the following, to the extent the sum exceeds three percent of annual income:

(i) Unreimbursed medical expenses of any elderly family or disabled family;

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

Anticipating Expenses

**HPHA Policy**

Generally, the HPHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), the HPHA will estimate costs based on historic data and known future costs.
If a family has an accumulated debt for medical or disability assistance expenses, the HPHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The HPHA may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

A deduction of $480 is taken for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, co-head, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

**Definition of Medical Expenses**

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean “medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.”

**HPHA Policy**

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used to determine the costs that qualify as medical expenses.

**Summary of Allowable Medical Expenses from IRS Publication 502**
<table>
<thead>
<tr>
<th>Services of medical professionals</th>
<th>Substance abuse treatment programs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surgery and medical procedures that are necessary, legal and non-cosmetic</td>
<td>Psychiatric treatment</td>
</tr>
<tr>
<td>Services of medical facilities</td>
<td>Ambulance services and some costs of transportation related to medical expenses</td>
</tr>
<tr>
<td>Hospitalization, long term care and in-home nursing services</td>
<td>The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses, lenses, hearing aids, crutches and artificial teeth)</td>
</tr>
<tr>
<td>Prescription medicines and insulin, but not nonprescription medicine even if recommended by a doctor</td>
<td>Cost and continuing care of necessary service animals</td>
</tr>
<tr>
<td>Improvements to housing directly related to medical needs (e.g., ramps for wheel chair, handrails)</td>
<td>Medical insurance premiums or the cost of a health maintenance organization (HMO)</td>
</tr>
</tbody>
</table>

**Note:** This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.

**Families That Qualify for Both Medical and Disability Assistance Expenses**

**HPHA Policy**

This policy applies only to families in which the head, spouse, or co-head is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the HPHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.
6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

**HPHA Policy**

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, the HPHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the HPHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members’ incomes.

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: “Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work” [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

**HPHA Policy**
Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

**Eligible Attendant Care**

The family determines the type of attendant care that is appropriate for the person with disabilities.

**HPHA Policy**

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the HPHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

**Payments to Family Members**

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

**Necessary and Reasonable Expenses**

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.
**HPHA Policy**

The HPHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the HPHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the HPHA will consider, the family’s justification for costs that exceed typical costs in the area.

**Families That Qualify for Both Medical and Disability Assistance Expenses**

**HPHA Policy**

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the HPHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

**6-II.F. CHILD CARE EXPENSE DEDUCTION**

HUD defines *child care expenses* at 24 CFR 5.603(b) as “amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

**Clarifying the Meaning of Child for This Deduction**

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family’s household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family’s household are included when determining the family’s child care expenses [HCV GB, p. 5-29].

**Qualifying for the Deduction**

**Determining Who Is Enabled to Pursue an Eligible Activity**

*HPHA Policy*
The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family’s request, the HPHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

**Seeking Work**

*HPHA Policy*

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member’s efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member’s job search efforts are not commensurate with the child care expense being allowed by the HPHA.

**Furthering Education**

*HPHA Policy*

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

**Being Gainfully Employed**

*HPHA Policy*

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member’s employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

**Earned Income Limit on Child Care Expense Deduction**
When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care—although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person’s earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, child care expenses are limited to $5,000.

The HPHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

**HPHA Policy**

When the child care expense being claimed is to enable a family member to work, only one family member’s income will be considered for a given period of time. When more than one family member works during a given period, the HPHA generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

**Eligible Child Care Expenses**

The type of care to be provided is determined by the assisted family. The HPHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

**Allowable Child Care Activities**

**HPHA Policy**
For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care. However, if private school is used in order to gain the benefit of full-time kindergarten when the public school offers only half day sessions, the cost of tuition may be considered as child care expense.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family’s unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the HPHA will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

**Necessary and Reasonable Costs**

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

**HPHA Policy**

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, the HPHA will use the schedule of child care costs from the local welfare agency. Families may present, and the HPHA will consider, justification for costs that exceed typical costs in the area.
PART III: CALCULATING FAMILY SHARE AND PHA SUBSIDY 6-III.A.

OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family’s monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family’s monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by the HPHA

The HPHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family’s TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

Welfare Rent [24 CFR 5.628]

HPHA Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

HPHA Policy

The minimum rent for this locality is $50.

Family Share [24 CFR 982.305(a)(5)]

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the HPHA’s applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the HPHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family’s monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family’s voucher was issued. (For a discussion of the application of payment standards, see section 6-III.C.)
**PHA Subsidy [24 CFR 982.505(b)]**

The HPHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family’s TTP or (2) the gross rent for the family’s unit minus the TTP. (For a discussion of the application of payment standards, see section 6-III.C.)

**Utility Reimbursement [24 CFR 982.514(b)]**

When the HPHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the HPHA to pay the reimbursement to the family or directly to the utility provider.

**HPHA Policy**

The HPHA will make utility reimbursements to the family.

**6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630] Overview**

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family’s TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the HPHA determines that a hardship exists, the family share is the highest of the remaining components of the family’s calculated TTP.

**HUD-Defined Financial Hardship**

Financial hardship includes the following situations:

1. The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

   **HPHA Policy**

   A hardship will be considered to exist only if the loss of eligibility has an impact on the family’s ability to pay the minimum rent.

   For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may
request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

HPHA Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family’s failure to pay rent to the owner or tenant-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

HPHA Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member’s income).

(5) The family has experienced other circumstances determined by the HPHA.

HPHA Policy

The HPHA has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the HPHA must suspend the minimum rent requirement beginning the first of the month following the family’s request.

The HPHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

HPHA Policy

The HPHA defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.
### Example: Impact of Minimum Rent Exemption

Assume the PHA has established a minimum rent of $50.

<table>
<thead>
<tr>
<th>Family Share – No Hardship</th>
<th>Family Share – With Hardship</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 = 30% of monthly adjusted income</td>
<td>$0 = 30% of monthly adjusted income</td>
</tr>
<tr>
<td>$15 = 10% of monthly gross income</td>
<td>$15 = 10% of monthly gross income</td>
</tr>
<tr>
<td>N/A = Welfare rent</td>
<td>N/A = Welfare rent</td>
</tr>
<tr>
<td>$50 = Minimum rent</td>
<td>$50 = Minimum rent</td>
</tr>
<tr>
<td>Minimum rent applies.</td>
<td>Hardship exemption granted.</td>
</tr>
<tr>
<td>TTP = $50</td>
<td>TTP = $15</td>
</tr>
</tbody>
</table>

**HPHA Policy**

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family’s ability to pay the minimum rent.

The HPHA will make the determination of hardship within 30 calendar days.

**No Financial Hardship**

If the HPHA determines there is no financial hardship, the HPHA will reinstate the minimum rent and require the family to repay the amounts suspended.

**HPHA Policy**

The HPHA will require the family to repay the suspended amount within 30 calendar days of the HPHA’s notice that a hardship exemption has not been granted.

**Temporary Hardship**

If the HPHA determines that a qualifying financial hardship is temporary, the HPHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family’s request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the HPHA the amounts suspended. HUD requires the HPHA to offer a reasonable repayment agreement, on terms and conditions established by the HPHA. The HPHA also may determine that circumstances have changed and the hardship is now a long-term hardship.
**HPA Policy**

The HPHA will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

**Long-Term Hardship**

If the HPHA determines that the financial hardship is long-term, the HPHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family’s request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

**HPA Policy**

The hardship period ends when any of the following circumstances apply:

1. At an interim or annual reexamination, the family’s calculated TTP is greater than the minimum rent.
2. For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.
3. For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

**6-III.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505] Overview**

The HPHA’s schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the HPHA’s payment standards. The establishment and revision of the HPHA’s payment standard schedule are covered in Chapter 16.

*Payment standard* is defined as “the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)” [24 CFR 982.4(b)].
The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the HPHA’s subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If the HPHA has established an exception payment standard for a designated part of an FMR area and a family’s unit is located in the exception area, the HPHA must use the appropriate payment standard for the exception area.

The HPHA is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family’s TTP or (2) the gross rent for the family’s unit minus the TTP.

If during the term of the HAP contract for a family’s unit, the owner lowers the rent, the HPHA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

**Changes in Payment Standards**

When the HPHA revises its payment standards during the term of the HAP contract for a family’s unit, it will apply the new payment standards in accordance with HUD regulations.

**Decreases**

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard generally will be used beginning at the effective date of the family’s second regular reexamination following the effective date of the decrease in the payment standard. The HPHA will determine the payment standard for the family as follows:

**Step 1:** At the first regular reexamination following the decrease in the payment standard, the HPHA will determine the payment standard for the family using the lower of the payment standard for the family unit size or the size of the dwelling unit rented by the family.

**Step 2:** The HPHA will compare the payment standard from step 1 to the payment standard last used to calculate the monthly housing assistance payment for the family. The payment standard used by the HPHA at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. The HPHA will advise the family that the application of the lower payment standard will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard.

**Step 3:** At the second regular reexamination following the decrease in the payment standard, the lower payment standard will be used to calculate the monthly housing assistance payment for the family unless the HPHA has subsequently increased the payment standard, in which case the
payment standard will be determined in accordance with procedures for increases in payment standards described below.

**Increases**

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family’s first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

**Changes in Family Unit Size**

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family’s first regular reexamination following the change in family unit size.

**Reasonable Accommodation**

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the HPHA is allowed to establish a higher payment standard for the family within the basic range.

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**6-III.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517] Overview**

A HPHA-established utility allowance schedule is used in determining family share and HPHA subsidy. The HPHA must use the appropriate utility allowance for the size of dwelling unit actually leased by a family rather than the voucher unit size for which the family qualifies using HPHA subsidy standards. See Chapter 5 for information on the HPHA’s subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16

**Reasonable Accommodation**

HCV program regulations require the HPHA to approve a utility allowance amount higher than shown on the HPHA’s schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the HPHA will approve an allowance for air-
conditioning, even if the HPHA has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide the HPHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

**Utility Allowance Revisions**

At reexamination, the HPHA must use the HPHA’s current utility allowance schedule [24 CFR 982.5 17(d)(2)].

**HPHA Policy**

Revised utility allowances will be applied to a family’s rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

**6-III.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]**

HUD regulations prohibit assistance to ineligible family members. *A mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The HPHA must prorate the assistance provided to a mixed family. The HPHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the HPHA subsidy for a family is calculated at $500 and two of four family members are ineligible, the HPHA subsidy would be reduced to $250.

**EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS**

**24 CFR 5.609**

(a) Annual income means all amounts, monetary or not, which:

1. Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

2. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

3. Which are not specifically excluded in paragraph (c) of this section.

4. Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.
(b) Annual income includes, but is not limited to:

1. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

2. The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

3. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

4. The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

5. Payments in lieu of earnings, such as unemployment and disability compensation, worker’s compensation and severance pay (except as provided in paragraph (c)(3) of this section);


   (i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

   (A) Qualify as assistance under the TANF program definition at 45 CFR 260.31; and

   (B) Are not otherwise excluded under paragraph (c) of this section.

   (ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

   (A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

HEALTH & HUMAN SERVICE’S DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 hat does the term “assistance” mean?

(a)(1) The term “assistance” includes cash, payments, vouchers, and other forms of benefits designed to meet a family’s ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) [The definition of “assistance”] excludes: (1) Non-recurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.
(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

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**EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS**

**24 CFR 5.609**

(c) Annual income does not include the following:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker’s compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

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2 FR Notice 11/24/08 makes note of pending revisions to this regulation, namely the exclusion of any deferred disability benefits received in lump-sum or prospective monthly amounts from the Department of Veterans Affairs (VA). At the time of publication, 24 CFR 5.609 had yet to be updated.

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in Sec. 5.403;
(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA’s governing board. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

<table>
<thead>
<tr>
<th>Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));</td>
</tr>
<tr>
<td>b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);</td>
</tr>
<tr>
<td>c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));</td>
</tr>
<tr>
<td>d) Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);</td>
</tr>
<tr>
<td>e) Payments or allowances made under the Department of Health and Human Services’ Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));</td>
</tr>
<tr>
<td>f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);</td>
</tr>
<tr>
<td>g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L.- 94-540, 90 Stat. 2503-04);</td>
</tr>
<tr>
<td>h) The first $2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);</td>
</tr>
<tr>
<td>i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);</td>
</tr>
<tr>
<td>j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));</td>
</tr>
</tbody>
</table>
k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina-bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and

s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.
(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

24 CFR 5.617 Self-sufficiency incentives for persons with disabilities—Disallowance of increase in annual income.

(a) Applicable programs. The disallowance of increase in annual income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

(b) Definitions. The following definitions apply for purposes of this section.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy
families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance—provided that the total amount over a six-month period is at least $500.

(c) **Disallowance of increase in annual income**—

(1) Initial twelve month exclusion. During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) Second twelve month exclusion and phase-in. During the second cumulative twelve month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) Maximum two year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) is limited to a lifetime 24 month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum of twelve months for disallowance under paragraph (c)(2), during the 24 month period starting from the initial exclusion under paragraph (c)(1) of this section.

(d) **Inapplicability to admission.** The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

**THE EFFECT OF WELFARE**

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**EXHIBIT 6-5: BENEFIT REDUCTION**

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**24 CFR 5.615**

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.
(a) **Applicability.** This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) **Definitions.** The following definitions apply for purposes of this section:

**Covered families.** Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

**Economic self-sufficiency program.** See definition at Sec. 5.603.

**Imputed welfare income.** The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

**Specified welfare benefit reduction.**

1. A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

2. "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:
   (i) at expiration of a lifetime or other time limit on the payment of welfare benefits;
   (ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
   (iii) because a family member has not complied with other welfare agency requirements.

(c) **Imputed welfare income.**

1. A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

2. At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

3. A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of
the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed welfare benefits reduction.

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) Review of PHA decision.

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) PHA relation with welfare agency.

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA.
However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.
Chapter 7

VERIFICATION


INTRODUCTION

The HPHA 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 HPHA must not pass on the cost of verification to the family.

The HPHA will follow the verification guidance provided by HUD in Notice PIH 2010-19 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary HPHA 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 HPHA.

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 HPHA or HUD determines is necessary to the administration of the program and must consent to HPHA verification of that information [24 CFR 982.55 1].

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 HPHA 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.
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 HPHA 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 HPHA procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS HUD’s

Verification Hierarchy

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

**HPHA Policy**

In order of priority, the forms of verification that the HPHA will use are:

- Up-front Income Verification (UIV) using HUD’s Enterprise Income Verification (EIV) system
- Up-front Income Verification (UIV) using a non-HUD system
- Written Third Party Verification (may be provided by applicant or participant)
- Written Third-party Verification Form
- Oral Third-party Verification
- Self-Certification

Each of the verification methods is discussed in subsequent sections below.

**Requirements for Acceptable Documents**

**HPHA Policy**

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 days of the date they are provided to the HPHA. The documents must not be damaged, altered or in any way illegible.

Print-outs from Web pages are considered original documents.

The HPHA 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 HPHA and must be signed in the presence of a HPHA representative or HPHA notary public.

File Documentation

The HPHA 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 HPHA 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.

HPHA Policy

The HPHA 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 HPHA is unable to obtain 3rd party verification, the HPHA will document in the family file the reason that third-party verification was not available. [24 CFR 960.259(c)(1); Notice PIH 2010-19].

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

Up-front income verification (UIV) refers to the HPHA’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 HPHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the HPHA 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 HPHA.

See Chapter 6 for the HPHA’s policy on the use of UIV/EIV to project annual income.
Upfront Income Verification Using HUD’s Enterprise Income Verification (EIV) System (Mandatory)

HUD’s EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. HUD requires the HPHA to use the EIV system in its entirety. The following policies apply to the use of HUD’s EIV system.

**EIV Reports**

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

**HPHA Policy**

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

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

Income reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income reports will be retained in participant files for three (3) years with the applicable annual or interim reexamination documents.

When the HPHA determines through income 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.

**EIV Discrepancy Reports**

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

Families who have not concealed or under-reported income may appear on the discrepancy report in some circumstances, such as loss of a job or addition of new family members.
Income discrepancies may be identified through use of the EIV “Income Discrepancy Report” or by review of the discrepancy tab for the individual family.

**HPHA Policy**

The HPHA will generate the Income Discrepancy Report at least once every 6 months.

When the HPHA determines that a participant appearing on the Income Discrepancy Report 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 discrepancy processing until a subsequent interim or annual reexamination has been completed.

The HPHA will review the EIV discrepancy tab during processing of annual and interim reexaminations.

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

When the HPHA determines through file 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.

The HPHA is required to use EIV’s *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2010-3].

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

**HPHA Policy**

The HPHA will identify participants whose identity verification has failed by reviewing EIV’s *Identity Verification Report* on a monthly basis.

The HPHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When the HPHA determines that discrepancies exist due to HPHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.
Upfront Income Verification Using Non-HUD Systems (Optional)

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

HPHA Policy

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

HUD’s EIV system

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 HPHA by the family. If written third-party verification is not available, the HPHA 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 HPHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The HPHA 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.

HPHA Policy

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

If the HPHA determines that third-party documents provided by the family are not acceptable, the HPHA will explain the reason to the family and request additional documentation.
As verification of earned income, the HPHA will request pay stubs covering the four previous consecutive periods prior to the HPHA’s request.

**Written Third-Party Verification Form**

When upfront verification is not available and the family is unable to provide written third-party documents, the HPHA 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.

A written third-party verification form is mandatory when there is an unreported source of income or a substantial difference in report income ($2400 annually or more) and there is no UIV or tenant-provided documentation to support the income discrepancy.

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

**HPHA Policy**

The HPHA 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 HPHA.

**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.

**HPHA Policy**

In collecting third-party oral verification, HPHA 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 HPHA 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.

**HPHA Policy**

If the family cannot provide original documents, the HPHA may 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 the HPHA 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].

**HPHA Policy**

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

**7-I.E. SELF-CERTIFICATION**

Self-certification, or “tenant declaration,” is used as a last resort when the HPHA is unable to obtain third-party verification.

When the HPHA 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.
HPHA 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 HPHA.

The HPHA 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 HPHA 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 HPHA representative or HPHA notary public.

PART II: VERIFYING FAMILY INFORMATION 7-II.A.

VERIFICATION OF LEGAL IDENTITY

HPHA Policy

The HPHA will require families to furnish verification of legal identity for each household member.

<table>
<thead>
<tr>
<th>Verification of Legal Identity for Adults</th>
<th>Verification of Legal Identity for Children</th>
</tr>
</thead>
<tbody>
<tr>
<td>Certificate of birth, naturalization papers</td>
<td>Certificate of birth</td>
</tr>
<tr>
<td>Church issued baptismal certificate</td>
<td>Adoption papers</td>
</tr>
<tr>
<td>Current, valid driver's license or Department of Motor Vehicles identification card</td>
<td>Custody agreement</td>
</tr>
</tbody>
</table>
If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the HPHA’s discretion, a third party who knows the person may attest to the person’s identity. The certification must be provided in a format acceptable to the HPHA and be signed in the presence of a HPHA representative or HPHA notary public.

Legal identity will be verified on an as needed basis.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2012-10]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

The HPHA must accept the following documentation as acceptable evidence of the social security number:

An original SSN card issued by the Social Security Administration (SSA)

An original SSA-issued document, which contains the name and SSN of the individual

An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual, along with other identifying information of the individual
Such other evidence of the SSN as HUD may prescribe in administrative instructions

The HPHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document, if the original document has been altered, mutilated, or is not legible, or if the document appears to be forged.

**HPHA Policy**

The HPHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the HPHA within 90 days.

When the participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The HPHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the HPHA determines that the participant’s failure to comply was due to unforeseen circumstances and was outside of the participant’s control. During the period the HPHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

**HPHA Policy**

The HPHA will grant one additional 90-day extension if needed for reasons beyond the participant’s control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously-assisted occupancy.

**HPHA Policy**

The HPHA will verify each disclosed SSN by:

- Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers
Making a copy of the original documentation submitted, returning it to the individual and retaining a copy in the file folder

Once the individual’s verification status is classified as “verified,” the PHA may remove and destroy copies of documentation accepted as evidence of social security numbers by no later than the next reexamination.

**HPHA Policy**

Once the individual’s verification status is classified as “verified” in HUD’s EIV system, the HPHA may remove and destroy copies of documentation accepted as evidence of social security numbers by no later than the next reexamination. However, as advised by auditor, all information will be maintained in tenant file.

### 7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

**HPHA Policy**

If an official record of birth or evidence of social security retirement benefits cannot be provided, the HPHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver’s license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously-assisted occupancy.

### 7-II.D. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

**HPHA Policy**
Family relationships are verified only to the extent necessary to determine a family’s eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

**Separation or Divorce**

**HPHA Policy**

Certification by the head of household is normally sufficient verification. If the HPHA has reasonable doubts about a separation or divorce, the HPHA will require the family to document the divorce, or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

**Absence of Adult Member**

**HPHA Policy**

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

**Foster Children and Foster Adults**

**HPHA Policy**

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.
7-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

**HPHA Policy**

The HPHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family reports full-time student status for an adult other than the head, spouse, or co-head.
- The family reports child care expenses to enable a family member to further his or her education.
- The family includes a student enrolled in an *institution of higher education*.

**Restrictions on Assistance to Students Enrolled in Institutions of Higher Education**

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

**HPHA Policy**

In accordance with the verification hierarchy described in Section 7-I.B, the HPHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Section Exhibit 3-2).
- The student is at least 24 years old.
- The student is a veteran, as defined in Section 3-II.E.
- The student is married.
- The student has at least one dependent child, as defined in Section 3-II.E.
- The student is a person with disabilities, as defined in Section 3-II.E, and was receiving assistance prior to November 30, 2005.

If the HPHA cannot verify at least one of these exemption criteria, the HPHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student’s income eligibility, the HPHA will then proceed to verify either the
student’s parents’ income eligibility (see Section 7-III.J) or the student’s independence from his/her parents (see below).

**Independent Student**

**HPHA Policy**

The HPHA will verify a student’s independence from his/her parents to determine that the student’s parents’ income is not relevant for determining the student’s eligibility by doing all of the following:

Either reviewing or verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education’s definition of *independent student* (see Section 3-II.E)

Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent

Requesting and obtaining written certification directly from the student’s parents identifying the amount of support they will be providing to the student, even if the amount of support is $0.

**7-II.F. DOCUMENTATION OF DISABILITY**

The HPHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The HPHA is not permitted to inquire about the nature or extent of a person’s disability [24 CFR 100.202(c)]. The HPHA may not inquire about a person’s diagnosis or details of treatment for a disability or medical condition. If the HPHA receives a verification document that provides such information, the HPHA will not place this information in the tenant file. Under no circumstances will the HPHA request a participant’s medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services’ website at www.os.dhhs.gov.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant’s ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
• Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
• Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
• Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

**HPHA Policy**

For family members claiming disability who receive disability benefits from the SSA, the HPHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD’s EIV System is not available, the HPHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the HPHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to the HPHA.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran’s disability benefits, worker’s compensation, or other non-SSA benefits based on the individual’s claimed disability are not sufficient verification that the individual meets HUD’s definition of disability in 24 CFR 5.603.

**HPHA Policy**

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508] Overview
Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and HPHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)]

**U.S. Citizens and Nationals**

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The HPHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

**HPHA Policy**

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the HPHA receives information indicating that an individual’s declaration may not be accurate.

**Eligible Immigrants**

**Documents Required**

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-2 at the end of this chapter summarizes documents family members must provide.

**HPHA Verification** [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.
For family members under the age of 62 who claim to be eligible immigrants, the HPHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS). The HPHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The HPHA must verify any preferences claimed by an applicant.

HPHA Policy

The HPHA will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. The HPHA will verify this preference using the HPHA’s termination records.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides HPHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

HPHA Policy

Unless tip income is included in a family member’s W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

HPHA Policy

Business owners and self-employed persons will be required to provide:

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes in the preceding year.
If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

Unless documented by receipts, the HPHA will allow only 40% of gross earnings to be deducted as business expense.

The HPHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the HPHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the HPHA will accept the family member’s certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the HPHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS Social Security/SSI Benefits

HPHA Policy

To verify the SS/SSI benefits of applicants, the HPHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the HPHA will help the applicant request a benefit verification letter from SSA’s Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the applicant has received the benefit verification letter they will be required to provide it to the HPHA.

To verify the SS/SSI benefits of participants, the HPHA will obtain information about social security/SSI benefits through the HUD EIV System, and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, the HPHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the HPHA will help the participant request a benefit verification letter from
SSA’s Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the participant has received the benefit verification letter they will be required to provide it to the HPHA.

7-III.D. ALIMONY OR CHILD SUPPORT

HPHA Policy

The way the HPHA will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it receives regular payments, verification will be sought in the following order.

1. Copy of the receipts and/or payment stubs for the 60 days prior to HPHA request
2. Third-party verification form from the state or local child support enforcement agency
3. Third-party verification form from the person paying the support
4. Family’s self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it receives irregular or no payments, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

1. A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts
2. If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake independent enforcement action.

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value
The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The HPHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

**HPHA Policy**

The HPHA will verify the value of assets disposed of only if:

- The HPHA does not already have a reasonable estimation of its value from previously collected information, or
- The amount reported by the family in the certification appears obviously in error.

**Example 1:** An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the HPHA verified this amount. Now the person reports that she has given this $10,000 to her son. The HPHA has a reasonable estimate of the value of the asset; therefore, re-verification of the value of the asset is not necessary.

**Example 2:** A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the HPHA will verify the

**7-III.F. NET INCOME FROM RENTAL PROPERTY**

**HPHA Policy**

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the HPHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.
7-III.G. RETIREMENT ACCOUNTS

**HPHA Policy**

The HPHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member’s retirement status.

*Before* retirement, the HPHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

*Upon* retirement, the HPHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

*After* retirement, the HPHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

The HPHA must obtain verification for income exclusions only if, without verification, the HPHA would not be able to determine whether the income is to be excluded. For example: If a family’s 16 year old has a job at a fast food restaurant, the HPHA will confirm that HPHA records verify the child’s age but will not require third-party verification of the amount earned. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

**HPHA Policy**

The HPHA will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, the HPHA will report the amount to be excluded as indicated on documents provided by the family.
7-III.I. ZERO ANNUAL INCOME STATUS

HPHA Policy

The HPHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc., are not being received by families claiming to have zero annual income.

Families will be required to re-certify and respond to the zero income questionnaire if they claim to be without income for a three month period of time. Based on the family responses, annual income may be determined and said income will be used to determine the family’s rent until an income change is reported, or the date of their next regularly scheduled re-certification. This questionnaire will also be used for families claiming $4,000.00 or less income annually.

7-III.J. STUDENT FINANCIAL ASSISTANCE

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, the HPHA would not be able to determine whether or to HPHA extent the income is to be excluded (see Section 7-III.H).

HPHA Policy

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), the HPHA will request written third-party verification of both the source and the amount. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, the HPHA will request written verification of the student’s tuition amount.
If the HPHA is unable to obtain third-party written verification of the requested information, the HPHA will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student’s parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents in accordance with HPHA policy [24 CFR 5.6 12 and FR 4/10/06, p. 18146].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

HPHA Policy

If the HPHA is required to determine the income eligibility of a student’s parents, the HPHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). The HPHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to the HPHA. The required information must be submitted (postmarked) within 10 business days of the date of the HPHA’s request or within any extended timeframe approved by the HPHA.

The HPHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.
PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the HPHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

**Dependent Deduction**

See Chapter 6 (6-II.B.) for a full discussion of this deduction. The HPHA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

**Elderly/Disabled Family Deduction**

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The HPHA must verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

**Amount of Expense**

**HPHA Policy**

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts

The HPHA will make a best effort to determine HPHA expenses from the past are likely to continue to occur in the future. The HPHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
Written third-party verification forms, if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, the HPHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

**Eligible Household**

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. The HPHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

**Qualified Expenses**

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the HPHA’s policy on HPHA counts as a medical expense.

**Unreimbursed Expenses**

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

**HPHA Policy**

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

**Expenses Incurred in Past Years**

**HPHA Policy**

When anticipated costs are related to on-going payment of medical bills incurred in past years, the HPHA will verify:
The anticipated repayment schedule
The amounts paid in the past, and
Whether the amounts to be repaid have been deducted from the family’s annual income in past years

7-IV.C. DISABILITY ASSISTANCE EXPENSES
Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

**HPHA Policy**

The HPHA will accept third-party documents provided by the family.

If family-provided documents are not available, the HPHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

**Auxiliary Apparatus**

**HPHA Policy**

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12-months.
Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the HPHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

**Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The HPHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

**Family Member(s) Permitted to Work**

The HPHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

**HPHA Policy**

The HPHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

**Unreimbursed Expenses**

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

**HPHA Policy**
The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the HPHA must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

 Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The HPHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

HPHA Policy

The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

The HPHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

HPHA Policy

Information to be Gathered

The HPHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time
required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the HPHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the HPHA will request family-provided verification from the agency of the member’s job seeking efforts to date and require the family to submit to the HPHA any reports provided to the other agency.

In the event third-party verification is not available, the HPHA will provide the family with a form on which the family member must record job search efforts. The HPHA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The HPHA will request third-party documentation to verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

The HPHA will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

HPHA Policy

The HPHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

The HPHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the
care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The HPHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household’s declaration of family members who are expected to reside in the unit.

**Reasonableness of Expenses**

Only reasonable child care costs can be deducted.

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**HPHA Policy**

The actual costs the family incurs will be compared with the HPHA’s established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the HPHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.
<table>
<thead>
<tr>
<th>Income Type</th>
<th>Upfront (LEVEL 5)</th>
<th>Written Third Party (LEVEL 4)</th>
<th>Oral Third Party (LEVEL 3)</th>
<th>Document Review (LEVEL 2)</th>
<th>Tenant Declaration (LEVEL 1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wages/Salaries</td>
<td>Use of computer matching agreements with a State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail or fax or in person.</td>
<td>The PHA mails, faxes, or e-mails a verification form directly to the independent sources to obtain wage information.</td>
<td>In the event the independent source does not respond to the PHA’s written request for information, the PHA may contact the independent source by phone or make an in person visit to obtain the requested information.</td>
<td>When neither form of third party verification can be obtained, the PHA may accept original documents such as consecutive pay stubs (HUD recommends the PHA review at least three months of pay stubs, if employed by the same employer for three months or more), W-2 forms, etc. from the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.</td>
<td>The PHA may accept a notarized statement or affidavit from the tenant that declares the family’s total annual income from earnings. Note: The PHA must document in the tenant file, the reason third party verification was not available.</td>
</tr>
<tr>
<td>Agreements with private vendor agencies, such as The Work Number or ChoicePoint to obtain wage and salary information.</td>
<td>The PHA may have the tenant sign a Request for Earnings Statement from the SSA to confirm past earnings. The PHA mails the form to SSA and the statement will be sent to the address the FHA specifies on the form.</td>
<td></td>
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<tr>
<td>Use of HUD systems, when available.</td>
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</tbody>
</table>

**Verification of Employment Income:** The PHA should always obtain as much information as possible about the employment, such as start date (new employment), termination date (previous employment), pay frequency, pay rate, anticipated pay increases in the next twelve months, year-to-date earnings, bonuses, overtime, company name, address and telephone number, name and position of the person completing the employment verification form.

**Effective Date of Employment:** The PHA should always confirm start and termination dates of employment.
<table>
<thead>
<tr>
<th>Income Type</th>
<th>Upfront (LEVEL 5)</th>
<th>Written Third Party (LEVEL 4)</th>
<th>Oral Third Party (LEVEL 3)</th>
<th>Document Review (LEVEL 2)</th>
<th>Tenant Declaration (LEVEL 1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Self-Employment</td>
<td>Not Available</td>
<td>The PHA mails or fax a verification form directly to sources identified by the family to obtain income information.</td>
<td>The PHA may call the source to obtain income information.</td>
<td>The PHA may accept any documents (i.e. tax returns, invoices and letters from customers) provided by the tenant to verify self-employment income. Note: The PHA must document in the tenant file, the reason third party verification was not obtained.</td>
<td>The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from self-employment. Note: The PHA must document in the tenant file, the reason third party verification was not obtained.</td>
</tr>
<tr>
<td>Social Security</td>
<td>Use of HUD Tenant Assessment System (TASS) to obtain current benefit history and discrepancy reports.</td>
<td>The PHA mails or fax a verification form directly to the local SSA office to obtain social security benefit information. (Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)</td>
<td>The PHA may call SSA, with the tenant on the line, to obtain current benefit amount. (Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)</td>
<td>The PHA may accept an original SSA Notice from the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not obtained.</td>
<td>The PHA may accept a notarized statement or affidavit from the tenant that declares monthly social security benefits. Note: The PHA must document in the tenant file, the reason third party verification was not obtained.</td>
</tr>
<tr>
<td>Benefits</td>
<td>Use of computer matching agreements with the local Social Services Agency to obtain current benefit amount electronically, by mail or fax or in person.</td>
<td>The PHA mails, faxes, or e-mails a verification form directly to the local Social Services Agency to obtain welfare benefit information.</td>
<td>The PHA may call the local Social Services Agency to obtain current benefit amount.</td>
<td>The PHA may review an original award notice or printout from the local Social Services Agency provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not obtained.</td>
<td>The PHA may accept a notarized statement or affidavit from the tenant that declares monthly welfare benefits. Note: The PHA must document in the tenant file, the reason third party verification was not obtained.</td>
</tr>
</tbody>
</table>

**Verification of Self-Employment Income:** Typically, it is a challenge for PHAs to obtain third party verification of self-employment income. When third party verification is not available, the PHA should always request a notarized tenant declaration that includes a perjury statement.
<table>
<thead>
<tr>
<th>Income Type</th>
<th>Upfront</th>
<th>Written Third Party</th>
<th>Oral Third Party</th>
<th>Document Review</th>
<th>Tenant Declaration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child Support</td>
<td>Use of agreement with the local Child Support Enforcement Agency to obtain current child support amount and payment status electronically, by mail or fax or in person.</td>
<td>The PHA mails, faxes, or e-mails a verification form directly to the local Child Support Enforcement Agency.</td>
<td>The PHA may call the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.</td>
<td>The PHA may review an original court order, notice or printout from the local Child Support Enforcement Agency provided by the tenant to verify current child support amount and payment status. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
<td>The PHA may accept a notarized statement or affidavit from the tenant that declares current child support amount and payment status. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
</tr>
<tr>
<td>Unemployment Benefits</td>
<td>Use of computer matching agreements with a State Wage Information Collection Agency to obtain unemployment compensation electronically, by mail or fax or in person.</td>
<td>The PHA mails, faxes, or e-mails a verification form directly to the State Wage Information Collection Agency.</td>
<td>The PHA may call the State Wage Information Collection Agency to obtain current benefit amount.</td>
<td>The PHA may review an original benefit notice or unemployment check stub, or printout from the local State Wage Information Collection Agency provided by the tenant. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
<td>The PHA may accept a notarized statement or affidavit from the tenant that declares unemployment benefits. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
</tr>
<tr>
<td>Pensions</td>
<td>Use of computer matching agreements with a Federal, State, or Local Government Agency to obtain pension information electronically, by mail or fax or in person.</td>
<td>The PHA mails, faxes, or e-mails a verification form directly to the pension provider to obtain pension information.</td>
<td>The PHA may call the pension provider to obtain current benefit amount.</td>
<td>The PHA may review an original benefit notice from the pension provider provided by the tenant. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
<td>The PHA may accept a notarized statement or affidavit from the tenant that declares monthly pension amounts. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
</tr>
<tr>
<td>Income Type</td>
<td>Upfront (LEVEL 5)</td>
<td>Written Third Party (LEVEL 4)</td>
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</tr>
<tr>
<td>Assets</td>
<td>Use of cooperative agreements with sources to obtain asset and asset income information electronically, by mail or fax or in person.</td>
<td>The PHA mails, faxes, or emails a verification form directly to the source to obtain asset and asset income information.</td>
<td>The PHA may call the source to obtain asset and asset income information.</td>
<td>The PHA may review original documents provided by the tenant. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
<td>The PHA may accept a notarized statement or affidavit from the tenant that declares assets and asset income. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
</tr>
<tr>
<td>Comments</td>
<td>Whenever HUD makes available wage, unemployment, and SSA information, the PHA should use the information as part of the reexamination process. Failure to do so may result in disallowed costs during a RIM review.</td>
<td><strong>Note:</strong> The independent source completes the form and returns the form directly to the PHA Agency. The tenant should not hand carry documents to or from the independent source.</td>
<td>The PHA should document in the tenant file, the date and time of the telephone call or in person visit, along with the name and title of the person that verified the current income amount.</td>
<td>The PHA should use this verification method as a last resort, when all other verification methods are not possible or have been unsuccessful. <strong>Notarized statement should include a perjury penalty statement.</strong></td>
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</tbody>
</table>

**Note:** The PHA must not pass verification costs along to the participant.

**Note:** In cases where the PHA cannot reliably project annual income, the PHA may elect to complete regular interim reexaminations (this policy should be apart of the PHA’s written policies.)
**EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]**

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the HPHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form.
- Additional documents are required based upon the person's status.

### Elderly Noncitizens
- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

### All other Noncitizens
- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Acceptable USCIS Document(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Form I-55 1 Alien Registration Receipt Card (for permanent resident aliens)</td>
<td>Form I-94 Arrival-Departure Record with no annotation accompanied by:</td>
</tr>
<tr>
<td></td>
<td>- A final court decision granting asylum (but only if no appeal is taken);</td>
</tr>
<tr>
<td></td>
<td>- A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);</td>
</tr>
<tr>
<td></td>
<td>- A court decision granting withholding of deportation; or</td>
</tr>
<tr>
<td></td>
<td>- A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</td>
</tr>
<tr>
<td>Form I-94 Arrival-Departure Record annotated with one of the following:</td>
<td>Form I-94 Arrival-Departure Record with no annotation accompanied by:</td>
</tr>
<tr>
<td></td>
<td>- A final court decision granting asylum (but only if no appeal is taken);</td>
</tr>
<tr>
<td></td>
<td>- A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);</td>
</tr>
<tr>
<td></td>
<td>- A court decision granting withholding of deportation; or</td>
</tr>
<tr>
<td></td>
<td>- A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</td>
</tr>
<tr>
<td>“Admitted as a Refugee Pursuant to Section 207”</td>
<td></td>
</tr>
<tr>
<td>“Section 208” or “Asylum”</td>
<td></td>
</tr>
<tr>
<td>“Section 243(h)” or “Deportation stayed by Attorney General”</td>
<td></td>
</tr>
<tr>
<td>“Paroled Pursuant to Section 221 (d)(5) of the USCIS”</td>
<td></td>
</tr>
<tr>
<td>Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.</td>
<td>Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.</td>
</tr>
</tbody>
</table>
• A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or
• Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the Federal Register.
Chapter 8
HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS
[24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the PHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and PHA-established requirements. HQS inspections are required before the Housing Assistance Payments (HAP) Contract is signed and at least annually during the term of the contract.

HUD also requires PHAs to determine that units rented by families assisted under the HCV program have rents that are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and PHA requirements related to housing quality and rent reasonableness as follows:

Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.

Part II. The Inspection Process. This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet HQS.

Part III. Rent Reasonableness Determinations. This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.
GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Attachment 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-525 80-A (9/00)
- Lead-based visual assessment
**Tenant Preference Items**

HUD requires the HPHA to enforce minimum HQS but also requires that certain judgments about acceptability be left to the family. For example, the HPHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic condition of the facilities is acceptable. Attachment 8-2 summarizes those items that are considered tenant preferences.

**Modifications to Provide Accessibility**

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

**HPHA Policy**

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the HPHA for review.

**8-I.B. ADDITIONAL LOCAL REQUIREMENTS**

The HPHA may impose additional quality standards as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choice. HUD approval is required if more stringent standards are imposed. HUD approval is not required if the HPHA additions are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].
Thermal Environment [HCV GB p.10-7]

The HPHA must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

HPHA Policy

The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1.

Clarifications of HUD Requirements

HPHA Policy

As permitted by HUD, the HPHA has adopted the following specific requirements that elaborate on HUD standards.

Walls

In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

Windows

Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.

Windows must be weather-stripped as needed to ensure a weather-tight seal. Window screens must be in good condition (applies only if screens are present).

Doors

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.

All interior doors must have no holes, have all trim intact, and be operable without the use of a key.

Floors

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be secured and made level. If they cannot be leveled, they must be replaced.
All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.

All floors should have some type of base shoe, trim, or sealing for a "finished look." Vinyl base shoe is permitted.

**Sinks**

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

All sinks must have functioning stoppers.

**Security**

If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

### 8-I.C. LIFE THREATENING CONDITIONS [24 CFR 982.404(a)]

HUD requires the HPHA to define life threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life threatening conditions within 24 hours of HPHA notification.

**HPHA Policy**

The following are considered life threatening conditions: Any condition that jeopardizes the security of the unit

Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling

Natural or LP gas or fuel oil leaks

Any electrical problem or condition that could result in shock or fire

Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit

Utilities not in service, including no running hot water
Conditions that present the imminent possibility of injury
Obstacles that prevent safe entrance or exit from the unit
Absence of a functioning toilet in the unit
Inoperable smoke detectors

If an owner fails to correct life threatening conditions as required by the HPHA, the housing assistance payment will be abated and the HAP contract will be terminated. See 8-II-G.

If a family fails to correct a family caused life threatening condition as required by the HPHA, the HPHA may terminate the family's assistance. See 8-II-H.

The owner will be required to repair an inoperable smoke detector unless the HPHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.


Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL [24 CFR 35.1225] (PIH NOTICE 2017-13)

If the HPHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care
provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, the HPHA must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from the HPHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS and the HPHA will take action in accordance with Section 8-II.G.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an elevated blood lead level are discussed in Chapter 16.

Housing Choice Voucher Program

- **Initial notification of a confirmed case to HUD:** Notifying the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes of the case – that is, the child’s address – within 5 business days. The PHA may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to be notified of the case by the owner and to forward the notification to the two HUD offices.

- **Initial notification of the public health department, when necessary:** When the owner is notified of the case by any medical health care professional other than the public health department, the owner shall notify the public health department of the name and address of the child within 5 business days. The PHA may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to inform the public health department.

- **Verification of the case, when necessary:** When the owner receives information from a person who is not a medical health care provider that a case may have occurred, the owner should immediately convey the information to the PHA so the PHA may notify the public health department, if the PHA has indicated, or indicates at this time, that it wishes to collaborate with the owner on implementation of the rule, as described below.

- **Control of lead-based paint hazards:** Completing the reduction of lead-based paint hazards in the index unit and common areas servicing that unit that were identified by the environmental investigation conducted by the PHA within 30 calendar days,
using a certified lead-based abatement firm or certified lead renovation firm. Work shall include occupant protection, and clearance of the unit and common areas servicing that unit by an independent certified risk assessor or a trained dust sampling technician working under the risk assessor in accordance with section 35.1340.

- **Notification to other residents**: As already required by the LSHR, in a multi-unit property, the owner must notify all residents of lead evaluation and hazard control activities.

- **Ongoing maintenance**: Maintaining covered housing without deteriorated paint if there is child under 6 in the family in accordance with sections 35.1220 and 35.1355 (a).

The PHA is responsible for:

- **Verification of the case, when notification is not from a medical health care provider**: The PHA may wish to collaborate with the owner on this verification of an EBLL case, such as by agreeing with the owner to receive the information about the possible cause. The PHA shall immediately verify the information with the public health department or other medical health care provider.

- **Environmental Investigation**: Conducting an environmental investigation of the child’s unit and the common areas servicing that unit in accordance with Chapter 16 of the HUD guidelines, as described in section 6 below. If lead-based paint hazards are found in the child’s unit (the index unit) in a multi-unit property, see section 9 below regarding risk assessments to be conducted in other covered units with a child under age 6 and the common areas servicing those units.

- **Monitoring of owner’s compliance with LSHR**: Monitoring the owner’s compliance with the LSHR in accordance with the Housing Assistance Payments (HAP) contract between the PHA and the owner. PHA’s can perform oversight of this in conjunction with periodic Housing Quality Standards (HQS) inspections, but not at a frequency less than annually if there was deteriorated paint or know lead-based paint hazards identified in the child’s unit or common areas servicing that unit. This includes such actions as (see above) monitoring the owner’s:
  
  - Notifying HUD of a confirmed case;
  - Notifying the public health department when any other medical health care professional notified the owner of the case;
  - Verifying the case when the owner receives information from a person who is not a medical health care provider that a case may have occurred;
Ensuring that any required lead hazard control (including passing clearance) is complete;

Ensuring that residents of other units in a multi-unit property were notified of lead evaluation and hazard control activities; and

Ensuring that ongoing maintenance of paint is conducted in accordance with sections 35.1220 and 35.1355 (a).

- **Control:** Ensuring the owner completes and clears the control of lead-based paint hazards identified in the environmental Investigation of the index unit and the common areas servicing that unit. If lead-based paint hazards are found in the index unit in a multi-unit property, and the risk assessments in other covered units with a child under age 6 and the common areas servicing those units identified lead-based paint hazards, control those lead-based paint hazards as described in section 9 below.

### 8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

If the HPHA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, the HPHA must issue the family a new voucher, and the family and HPHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the HPHA must terminate the HAP contract in accordance with its terms.

**PART II: THE INSPECTION PROCESS 8-II.A.**

### OVERVIEW [24 CFR 982.405]

**Types of Inspections**

The HPHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- **Initial Inspections.** The HPHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract.

- **Biennial Inspections.** HUD requires the HPHA to inspect each unit under lease at least biennially to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.

- **Special Inspections.** A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- **Quality Control Inspections.** HUD requires that a sample of units be re-inspected by a supervisor or other qualified individual to ensure that HQS are being enforced correctly and uniformly by all inspectors.

**Inspection of HPHA-owned Units [24 CFR 982.352(b)]**

The HPHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a HPHA-owned unit. A HPHA-owned unit is defined as a unit that is owned by the HPHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the HPHA). The independent agency must communicate the results of each inspection to the family and the HPHA. The independent agency must be approved by HUD, and may be the unit of general local government for the HPHA jurisdiction (unless the HPHA is itself the unit of general local government or an agency of such government).

**Inspection Costs**

The HPHA may not charge the family or owner for unit inspections [24 CFR 982.405(e)]. In the case of inspections of HPHA-owned units, the HPHA may compensate the independent agency from ongoing administrative fee for inspections performed. The HPHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

**Notice and Scheduling**

The family must allow the HPHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.55 1(d)].

**HPHA Policy**

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 4:00 p.m. Generally inspections will be conducted on business days only. In the case of a life threatening emergency, the HPHA will give as much notice as possible, given the nature of the emergency.

**Owner and Family Inspection Attendance**

HUD permits the HPHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].
**HPHA Policy**

When a family occupies the unit at the time of inspection an adult family member must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, the HPHA will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but is not required.

**8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)] Timing of**

**Initial Inspections**

HUD requires the unit to pass HQS before the effective date of the lease and HAP Contract. HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

**HPHA Policy**

The HPHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA).

Note: The HPHA does not choose to approve an assisted tenancy, execute the HAP contract and begin making housing assistance payments on a unit that fails the initial HQS inspection ... HOTMA 4/18/17
Inspection Results and Re-inspections

HPHA Policy

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the HPHA for good cause. The HPHA will re-inspect the unit within 5 business days of the date the owner notifies the HPHA that the required corrections have been made.

If the time period for correcting the deficiencies (or any HPHA-approved extension) has elapsed, or the unit fails HQS at the time of the re-inspection, the HPHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The HPHA may agree to conduct a second re-inspection, for good cause, at the request of the family and owner.

Following a failed re-inspection, the family may submit a new Request for Tenancy Approval for the unit if the family has not found another unit by the time the owner completes all repairs and the family continues to wish to live in the unit.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

HPHA Policy

If utility service is not available for testing at the time of the initial inspection, the HPHA will allow the utilities to be placed in service after the unit has met all other HQS requirements. The HPHA will re-inspect the unit to confirm that utilities are operational before the HAP contract is executed by the HPHA.

Appliances

HPHA Policy

If the family is responsible for supplying the stove and/or refrigerator, the HPHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by the HPHA. The HPHA will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.
8-II.C. ANNUAL HQS INSPECTIONS [24 CFR 982.405(a)]

Scheduling the Inspection

Each unit under HAP contract must have an inspection no more than 24 months after the most recent inspection.

HPHA Policy

If an adult family member cannot be present on the scheduled date, the family should request that the HPHA reschedule the inspection. The HPHA and family will agree on a new inspection date that generally should take place within 5 business days of the originally-scheduled date. The HPHA may schedule an inspection more than 5 business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the HPHA will automatically schedule a second inspection. If the family misses two scheduled inspections without HPHA approval, the HPHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family’s assistance in accordance with Chapter 12.

8-II.D. SPECIAL INSPECTIONS [HCV GB, p. 10-30]

The HPHA will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit.

HPHA Policy

During a special inspection, the HPHA generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the HPHA may elect to conduct a full annual inspection.

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); HCV GB, p. 10-32]

HUD requires an HPHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.
The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include (1) each type of inspection (initial, annual, and special),

(2) inspections completed by each inspector, and

(3) units from a cross-section of neighborhoods.

**8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT**

**Notification of Corrective Actions**

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the HPHA will determine (1) whether or not the failure is a life threatening condition and (2) whether the family or owner is responsible.

**HPHA Policy**

When life threatening conditions are identified, the HPHA will immediately notify both parties by telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the HPHA’s notice.

When failures that are not life threatening are identified, the HPHA will send the owner and the family a written notification of the inspection results within 5 business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally not more than 30 days will be allowed for the correction.

The notice of inspection results will inform the owner that if life threatening conditions are not corrected within 24 hours, and non-life threatening conditions are not corrected within the specified time frame (or any HPHA-approved extension), the owner’s HAP may be abated in accordance with HPHA policy (see 8-II.G.). Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any HPHA-approved extension, if applicable) the family’s assistance will be terminated in accordance with HPHA policy (see Chapter 12).
Extensions

For conditions that are life-threatening, the HPHA cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening, the HPHA may grant an exception to the required time frames for correcting the violation, if the HPHA determines that an extension is appropriate [24 CFR 982.404].

**HPHA Policy**

Extensions will be granted in cases where the HPHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner’s control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available. A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case by case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

Re-inspections

**HPHA Policy**

The HPHA will verify that necessary repairs have been completed by the end of the corrective period, or any HPHA approved extension.

The HPHA will require a re-inspection to verify that repairs were completed. The family and owner will be given reasonable notice of the re-inspection appointment.

If the deficiencies have not been corrected by the time of the re-inspection, the HPHA will send a notice of suspension (retention of HAP until unit complies with HQS within the period of the extension allowed by inspector) to the owner, or in the case of family-caused violations, a notice of termination to the family, in accordance with HPHA policies. If the HPHA is unable to gain entry to the unit in order to conduct the scheduled re-inspection, the HPHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family’s assistance in accordance with Chapter 12.
8-II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, the HPHA must take prompt and vigorous action to enforce the owner obligations.

HAP Suspension

**HPHA Policy**

If the first of the subsequent month falls between the first and second inspection, the HAP for that month will be suspended (nor remitted) until the unit is in compliance with HQS. The letter scheduling the second inspection will also state that failure to make the necessary repairs by the second inspection date will result in abatement for the month following the second inspection. This will satisfy the 30-day notice requirement that landlords must receive before abatement occurs. A copy of this letter will also be sent to the tenant.

If a life-threatening violation exists, the landlord will be notified by telephone that the violation must be corrected within 24 hours. The call will indicate a reinspection time within 24 hours of the first inspection and specify the repair needed. The caller will also state that failure to make necessary repairs by the second inspection time will result in abatement for the month following the failed reinspection. The tenant will also be notified of this action. The inspector will reinspect the premises within 24 hours of the initial inspection.

If the landlord has completed only a portion, or is still in the process of repairing the cited violations at the time of the second inspection, the unit will fail. The unit will be abated for the following month however, the landlord will have the opportunity to complete the repairs and request another inspection prior to the abatement date. If the unit passes inspection prior to the abatement date, the abatement will be rescinded. If the unit does not pass, the abatement will continue as planned. Both the landlord and tenant will be notified by letter that the subsidy payment has been abated.

If the landlord has repaired all cited items, but new violations are discovered, the unit will fail. A third inspection date will be scheduled and the landlord notified of the date and the new violations that require repair. The third inspection will be scheduled 30 days following the second inspection with a copy of the letter going to the tenant.

New violations will be treated as first-time violations and will be subject to the timelines and penalties cited above.
HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the HPHA, HUD requires the HPHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

HPHA Policy

The HPHA will make all HAP abatements effective the first of the month following the expiration of the HPHA specified correction period (including any extension).

The HPHA will inspect abated units within 5 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

The abatement will remain in effect until the unit passes inspection. If this is mid-month, a pro-rated HAP will be paid to the landlord. HAPs withheld during the “abatement” period are not recoverable by the owner.

When payments on a family’s unit are abated, the family will be notified of the action and of its rights as tenants to have repairs made. The family will also be given a new voucher and noticed that they need to move to a unit that is acceptable under HQS. The family must give the landlord appropriate notice as stated in their lease of their intent to vacate the unit and continue to pay their portion of the rent until they do actually vacate the unit. If the repairs are made within the 30 day time period and the abatement ends, the unit will regain its eligibility and the family may continue their residency.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

HAP Contract Termination

The HPHA must decide how long any abatement period will continue before the HAP contract will be terminated. The HPHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The HPHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.
**HPHA Policy**

The maximum length of time that a HAP may be abated is 90 days. However, if the owner completes corrections and notifies the HPHA before the termination date of the HAP contract, the HPHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by the HPHA is 30 days.

**8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]**

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the HPHA (and any extensions), the HPHA will terminate the family’s assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

**PART III: RENT REASONABLENESS [24 CFR 982.507] 8-III.A.**

**OVERVIEW**

No HAP contract can be approved until the HPHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit’s rent is reasonable.

**HPHA-owned Units [24 CFR 982.352(b)]**

In cases where an HCV family is receiving assistance in a HPHA-owned unit, the HPHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. An HPHA-owned unit is defined as a unit that is owned by the HPHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the HPHA). The independent agency must communicate the results
of the rent reasonableness determination to the family and the HPHA. The independent agency must be approved by HUD, and may be the unit of general local government for the HPHA jurisdiction (unless the HPHA is itself the unit of general local government or an agency of such government).

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED Owner-initiated Rent Determinations

The HPHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The HPHA (or independent agency in the case of HPHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the HPHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

**HPHA Policy**

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner’s lease. For rent increase requests after initial lease-up, the HPHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the HPHA will consider unit size and length of tenancy in the other units.

The HPHA will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rents adjustments will be effective the first of the month following 60 days after the HPHA’s receipt of the owner’s request or on the date specified by the owner, whichever is later.

**HPHA- and HUD-Initiated Rent Reasonableness Determinations**

HUD requires the HPHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a per PIH 2018-01) anniversary date. HUD also may
direct the HPHA to make a determination at any other time. The HPHA may decide that a new determination of rent reasonableness is needed at any time.

**HPHA Policy**

In addition to the instances described above, the HPHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the HPHA determines that the initial rent reasonableness determination was in error or (2) the HPHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

**8-III.C. HOW COMPARABILITY IS ESTABLISHED** Factors to Consider

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The HPHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made
- Amenities, services, and utilities included in the rent

**Units that Must Not be Used as Comparables**

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

*Note:* Notice PIH 2010-18, issued May 10, 2010, provides further guidance on the issue of HPHA constitutes an assisted unit.
Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-525 17) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the HPHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the HPHA information regarding rents charged for other units on the premises.

8-III.D. PHA RENT REASONABLENESS METHODOLOGY How Market

Data is Collected

HPHA Policy

The HPHA will collect and maintain data on market rents in the HPHA’s jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 12 months old will be eliminated from the database.

How Rents are Determined

HPHA Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The HPHA will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the HPHA may make adjustments to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).
Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference – not its construction costs (e.g., it might cost $20,000 to put on a new roof, but the new roof might not make any difference in HPHA a tenant would be willing to pay because rents units are presumed to have functioning roofs).

The HPHA will notify the owner of the rent the HPHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The HPHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 5 business days of the HPHA’s request for information or the owner’s request to submit information.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-525 80-A (9/00)

**Sanitary Facilities**

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

**Food Preparation and Refuse Disposal**

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

**Space and Security**

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.
**Thermal Environment**

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

**Illumination and Electricity**

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

**Structure and Materials**

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

**Interior Air Quality**

The dwelling unit must be free of air pollutant levels that threaten the occupants’ health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one operable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

**Water Supply**

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

**Lead-Based Paint**

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings. Owners must:
• Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
• provide all prospective families with "Protect Your Family from Lead in Your Home",
• Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the HPHA
• Notify tenants each time such an activity is performed
• Conduct all work in accordance with HUD safe practices
• As part of ongoing maintenance ask each family to report deteriorated paint.

For units occupied by elevated blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by the HPHA). If lead hazards are identified during the risk assessment, the owner must complete hazard reduction activities.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).
Hazards and Health/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family’s health and safety.

EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- **Sanitary Facilities.** The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.

- **Food Preparation and Refuse Disposal.** The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.

- **Space and Security.** The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.

- **Energy conservation items.** The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
• **Illumination and Electricity.** The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.

• **Structure and Materials.** Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.

• **Indoor Air.** Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family’s needs. However, if screens are present they must be in good condition.

• **Sanitary Conditions.** The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.

• **Neighborhood conditions.** Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.
Chapter 9

GENERAL LEASING POLICIES

INTRODUCTION

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

In order for the HPHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the HPHA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the HPHA and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by the HPHA, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family’s monthly adjusted income [24 CFR 982.305(a)]

9-I.A. TENANT SCREENING

The HPHA has no liability or responsibility to the owner or other persons for the family’s behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The HPHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the HPHA’s policies with regard to screening applicant families for program eligibility [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before HPHA approval of the tenancy, the HPHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. The HPHA must also inform the owner or manager or their responsibility to comply with VAWA [24 CFR 5.2007(3)(ii)].
The HPHA must provide the owner with the family’s current and prior address (as shown in the HPHA records); and the name and address (if known to the HPHA) of the landlord at the family's current and prior address. [24 CFR 982.307 (b)(1)].

The HPHA is permitted, but not required, to offer the owner other information in the HPHA’s possession about the family’s tenancy [24 CFR 982.307(b)(2)].

The HPHA’s policy on providing information to the owner must be included in the family’s briefing packet [24 CFR 982.307(b)(3)].

The HPHA will not screen applicants for family behavior or suitability for tenancy.

The HPHA will not provide additional screening information to the owner.

9-I.B. REQUESTING TENANCY APPROVAL [Form HUD-52517]

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the HPHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the HPHA:

• Completed Request for Tenancy Approval (RTA) – Form HUD-52517
• Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RFTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the HPHA to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the HPHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.
For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RFTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p. 8-15].

**HPHA Policy**

The RFTA must be signed by both the family and the owner.

The owner may submit the RFTA on behalf of the family.

Completed RFTA (including the proposed dwelling lease) must be submitted as hard copies, in-person, by mail, or by fax.

The family may not submit, and the HPHA will not process, more than one (1) RFTA at a time.

When the family submits the RFTA the HPHA will review the RFTA for completeness.

If the RFTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RFTA, the HPHA will notify the family and the owner of the deficiencies.

Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, or by fax. The HPHA will not accept missing information over the phone.

When the family submits the RFTA and proposed lease, the HPHA will also review the terms of the RFTA for consistency with the terms of the proposed lease.

If the terms of the RFTA are not consistent with the terms of the proposed lease, the HPHA will notify the family and the owner of the discrepancies.

Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail or by fax. The HPHA will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, the HPHA will attempt to communicate with the owner and family by phone, fax, or email. The HPHA will use mail when the parties can’t be reached by phone, fax, or email.
9-I.C. OWNER PARTICIPATION

The HPHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the HPHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

9-I.D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the PHA’s jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

The HPHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

HPHA-Owned Units [24 CFR 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by the HPHA issuing the voucher may also be leased in the voucher program. In order for an HPHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the HPHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select an HPHA-owned unit without any pressure or steering by the HPHA.

HPHA Policy

The HPHA has eligible HPHA-owned units available for leasing to families where the head of household or spouse is 62 years of age and older, or disabled and also families with or without children that do not meet this specification under the voucher program. The HPHA maintains separate waiting lists. The PBV waiting lists are maintained for the HPHA owned units. For Samuel Kronman servicing families where the head of household is 62 years of age or older, or disabled a wait list is maintained for efficiency units, one bedroom units and a third specifically for accessible units. For the Park Terrace site, a separate wait list is maintained for each of the four bedroom sizes.
The tenant-based Section 8 waiting list is maintained separately and will not be combined with the PBV waiting lists. The HPHA will inform the family of HPHA owned housing at the time of the briefing. The HPHA will also inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease.

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, the HPHA to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space, cooperative housing and homeownership option. (Prior to HOTMA, assistance payments provided to families that are owners of manufactured housing could only be made to assist the manufactured home owner with the rent for the space on which the manufactured home is located. However, section 112 of HOTMA has expanded the definition of “rent” for manufactured home owners receiving voucher assistance to also include other housing expenses, specifically, the monthly payments made by the family to amortize the cost of purchasing the manufactured home (including any required insurance and property taxes) and tenant-paid utilities.) See Chapter 15 for specific information and policies on any of these housing types that the HPHA has chosen to allow.

A PHA is not required to permit families to use any of the special housing types and may limit the number of families using special housing types. However, the regulations do require the PHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

**Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]**

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD’s Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

**Unit Size**

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

**Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]**

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

**Rent Burden [24 CFR 982.508]**

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the dwelling unit rent must be at a level where the family’s share of rent does not exceed 40 percent of the family’s monthly adjusted income. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.
**9-I.E. LEASE AND TENANCY ADDENDUM**

The family and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant family and the owner; the HPHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

**Lease Form and Tenancy Addendum [24 CFR 982.308]**

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

All provisions in the HUD-required Tenancy Addendum must also be added word-for-word to the owner's standard lease form, for use with the assisted family. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by the HPHA. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

**HPHA Policy**

The HPHA does not provide a model or standard dwelling lease for owners to use in the HCV program.

**Lease Information [24 CFR 982.308(d)]**

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
• A specification of HPHA utilities and appliances are to be supplied by the owner, and HPHA utilities and appliances are to be supplied by the family

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the HPHA to approve a shorter initial lease term if certain conditions are met.

HPHA Policy

The HPHA will not approve an initial lease term of less than one (1) year.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

The HPHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. The HPHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if the HPHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

HPHA Policy

The HPHA will allow the owner to collect any security deposit amount the owner determines is appropriate. (NJ State law limits the amount of security to one and a half times of the total monthly rent.) Therefore, no modifications to the HAP contract will be necessary.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus the HPHA’s housing assistance payments to the owner [24 CFR 982.45 1(b)(4)].
The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.5 10(c)]

**HPHA Policy**

The HPHA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

**HPHA Review of Lease**

The HPHA will review the dwelling lease for compliance with all applicable requirements.

**HPHA Policy**

If the dwelling lease is incomplete or incorrect, the HPHA will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be
accepted as hard copies, in-person, by mail, or by fax. The HPHA will not accept missing and corrected information over the phone.

Because the initial leasing process is time-sensitive, the HPHA will attempt to communicate with the owner and family by phone, fax, or email. The HPHA will use mail when the parties can’t be reached by phone, fax, or email.

The HPHA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the HPHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)].

HPHA Policy

The HPHA will review the owner’s lease for compliance with state/local law.

9-I.F. TENANCY APPROVAL [24 CFR 982.305]

After receiving the family’s Request for Tenancy Approval, with proposed dwelling lease, the HPHA must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the HPHA must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the HPHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must be reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family’s monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

HPHA Policy

The HPHA will complete its determination within 10 business days of receiving all required information.
If the terms of the RFTA/proposed lease are changed for any reason, including but not limited to negotiation with the HPHA, the HPHA will obtain corrected copies of the RFTA and proposed lease, signed by the family and the owner.

Corrections to the RFTA/proposed lease will only be accepted as hard copies, in-person, by mail, or by fax. The HPHA will not accept corrections over the phone.

If the HPHA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. The HPHA will instruct the owner and family of the steps that are necessary to approve the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), the HPHA will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between the HPHA and the owner of the dwelling unit occupied by a housing choice voucher assisted family. Under the HAP contract, the HPHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements.

The HAP contract format is prescribed by HUD.

If the HPHA has given approval for the family of the assisted tenancy, the owner and the HPHA execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.45 1(a)(2)]. The HPHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.
The HPHA must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The HPHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the HPHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60 day period is void, and the HPHA may not pay any housing assistance payment to the owner.

**HPHA Policy**

Owners who have not previously participated in the HCV program must attend a meeting with the HPHA in which the terms of the Tenancy Addendum and the HAP contract will be explained. The HPHA may waive this requirement on a case-by-case basis, if it determines that the owner is sufficiently familiar with the requirements and responsibilities under the HCV program.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the HPHA. The HPHA will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and the HPHA will execute the HAP contract. The HPHA will not execute the HAP contract until the owner has submitted IRS form W-9. The HPHA will ensure that the owner receives a copy of the executed HAP contract.

See Chapter 13 for a discussion of the HAP contract and contract provisions.

**9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]**

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the HPHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, HPHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not be continued unless the HPHA has approved a new tenancy in accordance with
program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RFTA) along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of rent, the owner must notify the HPHA of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The HPHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or give the family notice in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

**HPHA Policy**

Where the owner is requesting a rent increase, the HPHA will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the 60 day period after the owner notifies the HPHA of the rent change or on the date specified by the owner, whichever is later.

The HPHA reserves the right to deny rent increases due to funding shortages. The tenant will need to relocate if the owner is unwilling to maintain the rent.
Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of choice is a hallmark of the housing choice voucher (HCV) program. In general, therefore, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and PHA policies governing moves within or outside the HPHA’s jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the HPHA’s HCV program, whether the family moves to another unit within the HPHA’s jurisdiction or to a unit outside the HPHA’s jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the HPHA’s jurisdiction. This part also covers the special responsibilities that the HPHA has under portability regulations and procedures.

Part III: Emergency Transfers (VAWA). This part covers special rules PBV tenants in PHA owned units that require transfers due to domestic violence and other issues covered under VAWA.

PART I: MOVING WITH CONTINUED ASSISTANCE 10-I.A.

ALLOWABLE MOVES
HUD lists five regulatory conditions and the statutory condition under VAWA in which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner’s breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the HPHA a copy of the notice at the same time [24 CFR 982.3 14(d)(1)].

- The Violence Against Women Reauthorization Act of 2005 provides that “a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit” [24 CFR 982.353(b)].

- The lease for the family’s unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.3 14(b)(1)(ii)].

**HPHA Policy**

If the family and the owner mutually agree to terminate the lease for the family’s unit, the family must give the HPHA a copy of the termination agreement.

- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.3 14(b)(2)]. The family must give the HPHA a copy of any owner eviction notice [24 CFR 982.551(g)].

- The HPHA has terminated the assisted lease for the family’s unit for the owner’s breach [24 CFR 982.3 14(b)(1)(i)].

- The HPHA determines that the family’s current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the HPHA must issue the family a new voucher, and the family and HPHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the HPHA must terminate the HAP contract for the family’s old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the HPHA gives notice to the owner. [24 CFR 982.403(a) and (c)]

**10-I.B. RESTRICTIONS ON MOVES**
A family’s right to move is generally contingent upon the family’s compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

**Denial of Moves**

HUD regulations permit the PHA to deny a family permission to move under the following conditions:

**Insufficient Funding**

The PHA may deny a family permission to move if the HPHA does not have sufficient funding for continued assistance [24 CFR 982.3 14(e)(1)]. However, Notice PIH 2008-43 significantly restricts the ability of PHAs to deny permission to move under portability due to insufficient funding. The requirements found in this notice are mandatory. **For moves outside the HPHA’s jurisdiction under portability, no policy decisions are required.**

**HPHA Policy**

The HPHA will deny a family permission to move on grounds that the HPHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the HPHA; (b) the HPHA can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the HPHA can demonstrate, in accordance with the policies in Part VIII of Chapter 16 and/or Notice PIH 2008-43, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs.

**Grounds for Denial or Termination of Assistance**

The HPHA has grounds for denying or terminating the family’s assistance [24 CFR 982.3 14(e)(2)]. VAWA allows exceptions to these grounds for denial or termination of assistance for families who are otherwise in compliance with program obligations, but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.353(b)].

**HPHA Policy**

If the HPHA has grounds for denying or terminating a family’s assistance, the HPHA will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances. Refer to sections 3-III.G and 12-II.E for VAWA provisions.
Restrictions on Elective Moves [24 CFR 982.314©]

HUD regulations permit the HPHA to prohibit any elective move by a participant family during the family’s initial lease term. They also permit the HPHA to prohibit more than one elective move by a participant family during any 12-month period.

HPHA Policy

The HPHA will deny a family permission to make an elective move during the family’s initial lease term. This policy applies to moves within the HPHA’s jurisdiction or outside it under portability.

The HPHA will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in the HPHA’s jurisdiction.

The HPHA will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, and witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

In addition, the HPHA will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

10-I.C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify the HPHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. If the family wishes to move to a unit outside the HPHA’s jurisdiction under portability, the notice to the HPHA must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2008-43]. The notices must be in writing [24 CFR 982.5].

Approval

HPHA Policy

Upon receipt of a family’s notification that it wishes to move, along with the owner’s certification that the family does not owe rent to the owner, the HPHA will determine whether the move is approvable in accordance with the regulations and policies set
forth in sections 10-I.A and 10-I.B. The HPHA will notify the family in writing of its determination within 10 business days following receipt of the family’s notification.

Reexamination of Family Income and Composition

HPHA Policy

For families approved to move to a new unit within the HPHA’s jurisdiction, the HPHA will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into or families approved to move out of the HPHA’s jurisdiction under portability, the HPHA will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

HPHA Policy

For families approved to move to a new unit within the HPHA’s jurisdiction, the HPHA will issue a new voucher within 10 business days of the HPHA’s written approval to move. No briefing is required for these families. The HPHA will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the HPHA approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the HPHA’s jurisdiction under portability, the HPHA will follow the policies set forth in Part II of this chapter.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month after the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.
PART II: PORTABILITY

10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The first PHA is called the initial PHA. The second is called the receiving PHA.

The receiving PHA has the option of administering the family’s voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA bills the initial PHA for the family’s housing assistance payments and the fees for administering the family’s voucher. Under the second option, the receiving PHA pays for the family’s assistance out of its own program funds, and the initial PHA has no further relationship with the family.

The same PHA commonly acts as the initial PHA for some families and as the receiving PHA for others. Each role involves different responsibilities. The PHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

10-II.B. INITIAL PHA ROLE

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.3 53(b)]. If there is more than one PHA in the area, the initial PHA may choose the receiving PHA [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA’s jurisdiction under portability. The initial PHA, in accordance with HUD regulations and PHA policy, determines whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the HPHA’s jurisdiction under portability. However, HUD gives the HPHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance.

HPHA Policy
In determining whether or not to deny an applicant family permission to move under portability because the HPHA lacks sufficient funding or has grounds for denying assistance to the family, the initial PHA will follow the policies established in section 10-I.B of this chapter.

In addition, the HPHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353C].

**HPHA Policy**

If neither the head of household nor the spouse/co-head of an applicant family had a domicile (legal residence) in the HPHA’s jurisdiction at the time the family’s application for assistance was submitted, the family must live in the HPHA’s jurisdiction with voucher assistance for at least 12 months before requesting portability.

The HPHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2). However, any exception to this policy is subject to the approval of the receiving PHA [24 CFR 982.353©(3)].

**Participant Families**

The initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. VAWA creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.353(b)].

**HPHA Policy**

The HPHA will determine whether a participant family may move out of the HPHA’s jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. The HPHA will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

**Determining Income Eligibility**

**Applicant Families**

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.3 53(d)(3)]. The family must specify the area to which the family wishes to move [Notice 2008-43].
The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.3 55©(1)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2008-43].

**Participant Families**

The income eligibility of a participant family is not re-determined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2), 24 CFR 982.355(c)(1)].

**Reexamination of Family Income and Composition**

No new reexamination of family income and composition is required for an applicant family.

**HPHA Policy**

For a participant family approved to move out of its jurisdiction under portability, the HPHA generally will conduct a reexamination of family income and composition only if the family’s annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

The HPHA will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

**Briefing**

The regulations and policies on briefings set forth in Chapter 5 of this plan require the HPHA to provide information on portability to all applicant families that qualify to lease a unit outside the HPHA’s jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

**HPHA Policy**

No formal briefing will be required for a participant family wishing to move outside the HPHA’s jurisdiction under portability. However, the HPHA will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5). The HPHA will provide the name, address, and phone of the contact for the HPHA in the jurisdiction to which they wish to move. The HPHA will advise the family that they will be under the HPHA’s policies and procedures, including subsidy standards and voucher extension policies.

**Voucher Issuance and Term**
An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the HPHA will follow the regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

**HPHA Policy**

For families approved to move under portability, the HPHA will issue a new voucher within 10 business days of the HPHA’s written approval to move.

The initial term of the voucher will be 60 days.

### Voucher Extensions and Expiration

**HPHA Policy**

The HPHA will approve no extensions to a voucher issued to an applicant or participant family porting out of the HPHA’s jurisdiction except under the following circumstances:

(a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to the initial PHA’s jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA’s jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the initial PHA’s voucher program, a family that moves to another PHA’s jurisdiction under portability must be under HAP contract in the receiving PHA’s jurisdiction within 60 days following the expiration date of the initial PHA’s voucher term (including any extensions). (See below under “Initial Billing Deadline” for one exception to this policy.)

### Initial Contact with the Receiving PHA

After approving a family’s request to move under portability, the initial PHA must promptly notify the receiving PHA to expect the family [24 CFR 982.3 55(c)(2)]. This means that the initial PHA must contact the receiving PHA directly on the family’s behalf [Notice PIH 2008-
The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(2)].

**HPHA Policy**

Because the portability process is time-sensitive, the PHA will notify the receiving PHA by phone, fax, or e-mail to expect the family. The initial PHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, and email and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The HPHA will pass this information along to the family. The HPHA will also ask for the name, address, telephone number, fax and email of the person responsible for processing the billing information.

**Sending Documentation to the Receiving PHA**

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2008-43]
- A copy of the family’s voucher [Notice PIH 2008-43]
- A copy of the family’s most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355©(4), Notice PIH 2008-43]
- Copies of the income verifications backing up the form HUD-50058, including a copy of the family’s current EIV data [24 CFR 982.355©(4), Notice PIH 2008-43]

**HPHA Policy**

In addition to these documents, the HPHA will provide the following information, if available, to the receiving PHA:

- Social security numbers (SSNs)
- Documentation of SSNs for all nonexempt household members who’s SSNs have not been verified through the EIV system
- Documentation of legal identity
- Documentation of citizenship or eligible immigration status
- Documentation of participation in the earned income disallowance (EID) benefit
- Documentation of participation in a family self-sufficiency (FSS) program
The HPHA will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

**Initial Billing Deadline [Notice PIH 2008-43]**

When the initial PHA sends form HUD-52665 to the receiving PHA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving PHA. This deadline is 90 days following the expiration date of the voucher issued to the family by the initial PHA. If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it may report to HUD the receiving PHA’s failure to comply with the deadline.

**HPHA Policy**

If the HPHA has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, it will contact the receiving PHA by phone, fax, or e-mail on the next business day. If the PHA reports that the family is not yet under HAP contract, the HPHA will inform the receiving PHA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The HPHA will send the receiving PHA a written confirmation of its decision by mail.

The HPHA will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

**Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2008-43]**

If the receiving PHA is administering the family’s voucher, the initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be received by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide
assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

**HPHA Policy**

The initial PHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the initial PHA that direct deposit is not acceptable to them.

**Annual Updates of Form HUD-50058**

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family’s annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family.

**Denial or Termination of Assistance [24 CFR 982.355(c)(9)]**

If the initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the initial PHA may act on those grounds at any time. (For HPHA policies on denial and termination, see Chapters 3 and 12, respectively.)

**10-II.C. RECEIVING PHA ROLE**

If a family has a right to lease a unit in the receiving PHA’s jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)].

The receiving PHA’s procedures and preferences for selection among eligible applicants do not apply, and the receiving PHA’s waiting list is not used [24 CFR 982.3 55(10)]. However, the family’s unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(7)], and the amount of the family’s housing assistance payment is determined in the same manner as for other families in the receiving PHA’s voucher program [24 CFR 982.3 55(e)(2)].

**Initial Contact with Family**

When a family moves into the PHA’s jurisdiction under portability, the family is responsible for promptly contacting the HPHA and complying with the PHA’s procedures for incoming portable families [24 CFR 982.355(c)(3)].
If the voucher issued to the family by the initial PHA has expired, the receiving PHA does not process the family's paperwork but instead refers the family back to the initial PHA [Notice PIH 2008-43].

When a portable family requests assistance from the receiving PHA, the receiving PHA must promptly inform the initial PHA whether the receiving PHA will bill the initial PHA for assistance on behalf of the portable family or will absorb the family into its own program [24 CFR 982.3 55©(5)]. If the PHA initially bills the initial PHA for the family's assistance, it may later decide to absorb the family into its own program [Notice PIH 2008-43]. (See later under “Absorbing a Portable Family” for more on this topic.)

**HPHA Policy**

Within 10 business days after a portable family requests assistance, the receiving PHA will notify the initial PHA whether it intends to bill the receiving PHA on behalf of the portable family or absorb the family into its own program.

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2008-43]. (For more on this topic, see later under “Denial or Termination of Assistance.”)

**Briefing**

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family’s search [Notice PIH 2008-43].

**HPHA Policy**

The HPHA will not require the family to attend a briefing. The HPHA will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about the HPHA’s payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

**Income Eligibility and Reexamination**

HUD allows the receiving PHA to conduct its own income reexamination of a portable family [24 CFR 982.355(c)(4)]. However, the receiving PHA may not delay voucher issuance or unit approval until the reexamination process is complete unless the reexamination is necessary to determine that an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PIH 2008-43, 24 CFR 982.201(b)(4)]. The receiving PHA does not re-determine income eligibility for a portable family that was already receiving assistance in the initial PHA’s voucher program [24 CFR 982.3 55(c)(1)].
**HPHA Policy**

For any family moving into its jurisdiction under portability, the HPHA will conduct a new reexamination of family income and composition. However, the HPHA will not delay issuing the family a voucher for this reason. Nor will the HPHA delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the HPHA cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, the HPHA will rely upon any verifications provided by the initial PHA to the extent that they (a) accurately reflect the family’s current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

**Voucher Issuance**

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(b)(6)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA’s voucher [24 CFR 982.355(c)(6)].

**Timing of Voucher Issuance**

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family’s paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA’s procedures [Notice PIH 2008-43].

**HPHA Policy**

When a family ports into its jurisdiction, the HPHA will issue the family a voucher based on the paperwork provided by the initial PHA unless the family’s paperwork from the initial PHA is incomplete, the family’s voucher from the initial PHA has expired or the family does not comply with the HPHA’s procedures. The HPHA will update the family’s information when verification has been completed.

**Voucher Term**

The term of the receiving PHA’s voucher may not expire before the term of the initial PHA’s voucher [24 CFR 982.355(c)(6)].
HPHA Policy

The receiving PHA’s voucher will no longer expire on the same date as the initial PHA’s voucher. It must be extended 30 days beyond the initial expiration date to allow for portability procedures.

Voucher Extensions [24 CFR 982.355(c)(6), Notice 2008-43]

The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA’s voucher; however, if it does so, it must inform the initial PHA of the extension. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

HPHA Policy

The HPHA generally will not extend the term of the voucher that it issues to an incoming portable family unless the HPHA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

The HPHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

Notifying the Initial PHA

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA’s voucher [24 CFR 982.3 55(c)(8)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.3 55(e)(5), Notice PIH 2008-43]. (For more on this topic and the deadline for notification, see below under “Administering a Portable Family’s Voucher.”)

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA’s jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA’s voucher is only valid for the family’s search in the receiving PHA’s jurisdiction [Notice PIH 2008-43].

Administering a Portable Family’s Voucher
**Initial Billing Deadline**

If a portable family’s search for a unit is successful and the receiving PHA intends to administer the family’s voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 business days following the date the receiving PHA executes a HAP contract on behalf of the family and (b) in time that the notice will be received no later than 90 days following the expiration date of the family’s voucher issued by the initial PHA [Notice PIH 2008-43]. A copy of the family’s form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or e-mail.

**HPHA Policy**

The HPHA will send its initial billing notice by fax or e-mail.

If the receiving PHA fails to send the initial billing within 10 business days following the date the HAP contract is executed, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is over leased) [Notice PIH 2008-43].

**Ongoing Notification Responsibilities [Notice PIH 2008-43, HUD-52665]**

**Annual Reexamination.** The receiving PHA must send the initial PHA a copy of a portable family’s updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

**HPHA Policy**

The HPHA will send a copy of the updated HUD-50058 by regular mail at the same time the HPHA and owner are notified of the reexamination results.

**Change in Billing Amount.** The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program
The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-52665 within 10 days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification.

**Late Payments [Notice PIH 2008-43]**

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

**Overpayments [Notice PIH 2008-43]**

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD’s discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2008-43.

**Denial or Termination of Assistance**
At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR 982.355©(10)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement [Notice PIH 2008-43].

**HPHA Policy**

If the HPHA elects to deny or terminate assistance for a portable family, the HPHA will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. The HPHA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

**Absorbing a Portable Family**

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that (a) the PHA has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in over leasing [24 CFR 982.3 55(d)(1), Notice PIH 2008-43].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201 (b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family [Notice PIH 2008-43].

**HPHA Policy**

If the HPHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the HPHA will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the HPHA decides to absorb a family after that, it will attempt to provide the initial PHA with 30 days’ advance notice.
Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA’s voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability.

**Occupancy Rights under the Violence Against Women Act (VAWA)**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are equally available to all individuals regardless of sex, gender identity, or sexual orientation. HUD is the federal agency that oversees that the Woodbridge Housing Authority’s HCV and PBV rental assistance programs are in compliance with VAWA.

If an applicant/participant otherwise qualifies for assistance under the HCV/PBV rental assistance programs, they cannot be denied admission/participation because they are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

If you are receiving assistance under the HPHA’s HCV or PBV programs, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights within our HCV or PBV programs solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (person in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

**Removing the Abuser or Perpetrator from the Household**

The HPHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If HPHA chooses to remove the abuser or perpetrator, the HPHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the HPHA must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility.
under the program or under another HUD housing program covered by VAWA, or find alternative housing.

**Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

The HPHA is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the VAWA, the HPHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant’s current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation. The ability of the HPHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the HPHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance for tenants’ safety and security.

**Confidentiality**

The HPHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the HPHA written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under VAWA.

**Emergency Transfer Timing and Availability**

The HPHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The HPHA will however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The HPHA may
be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

**Eligibility for Emergency Transfers**

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD’s regulations at 24 CFR part 5, subpart L is eligible for an emergency transfer, if: the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant who is not in good standing may still request an emergency transfer if they meet eligibility requirements in this section.

**Emergency Transfer Request Documentation**

To request an emergency transfer, the tenant shall notify the HPHA management office and submit a written request for a transfer. The HPHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant’s written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit under the HPHA’s program; or

2. In removing the abuser or perpetrator from the household, the HPHA must follow Federal, State, and local eviction procedures. In order to divide a lease, the HPHA may, but is not required to ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

**Moving to Another Unit**

Upon your request, the HPHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the HPHA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

1. **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If the HPHA does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, we will ask you for such documentation, as described in documentation section below.
2. **You expressly request the emergency transfer.** The HPHA will require that you submit your request for transfer in writing.

3. **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

4. **You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you requested a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property you seek a transfer from within the past 90 days.

The HPHA will keep confidential all requests for emergency transfers.

**Documentation**

The HPHA will ask you to provide documentation to certify that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request for documentation will be in writing and will allow at least 14 business days from the day you receive the request to provide documentation, to provide said documentation. The HPHA may, but does not have to extend the deadline for the submission of documentation.

The HPHA will accept any of the following as documentation:

- A complete HUD-approved certification form. The form will ask for your name, the date, time, and location of the incident of domestic violence. Dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and it is safe to provide.
- A record of a Federal, State, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of a HPHA employee, agent, or volunteer of a victim service provider, an attorney, a medical professional, or a mental health professional from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement that the executive director determines is suitable documentation.
If you fail or refuse to provide one of these documents within 14 business days, the HPHA does not have to provide you with an emergency transfer.

If the HPHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed, the HPHA has the right to request that you provide third-party documentation within 30-days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the HPHA does not have to approve an emergency transfer.

Confidentiality

The HPHA must and will keep confidential any information provided by tenants related to the exercise of their rights under VAWA. The HPHA will not allow any individual administering assistance or other services on behalf of the HPHA (for example, employees or contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to confidential information under applicable Federal, State, or local law.

The HPHA must not and will not enter the tenant’s information into any shared database or disclose their information to any other entity or individual. The HPHA may disclose information provide that:

- The tenant gives written permission to the HPHA to release the information on a time limited basis.
- The HPHA needs to use the information in an eviction or termination proceeding, such as to evict the tenant’s abuser or perpetrator, or terminate said abuser or perpetrator from assistance under this program.
- A law requires the HPHA or your landlord to release the information.

VAWA does not limit the HPHA’s duty to honor court orders about access to or control of property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May be Evicted or Assistance Terminated

A tenant can be evicted and/or their assistance terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against the tenant. However, the HPHA cannot hold tenants who have been victims of domestic abuse, dating abuse, sexual assault, or stalking to a more
The protections of VAWA might not apply, and the tenant could be evicted and/or assistance terminated if the HPHA can demonstrate that not evicting the tenant or terminating their assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If the HPHA can demonstrate the above, the HPHA will only terminate the tenant’s assistance or evict tenant if there are no other actions that could be taken to reduce or eliminate the threat.

Chapter 11
REEXAMINATIONS

INTRODUCTION

The HPHA is required to reexamine each family’s income and composition at least annually, and to adjust the family’s level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and HPHA policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.
Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.


**OVERVIEW**

The HPHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family’s income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

**11-I.B. SCHEDULING ANNUAL REEXAMINATIONS**

The HPHA must establish a policy to ensure that the annual reexamination for each family is completed within a 12-month period, and may require reexaminations more frequently [HCV GB p. 12-1].

**HPHA Policy**

The HPHA will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the HPHA will schedule annual reexamination effective dates to coincide with the family’s anniversary date.

*Anniversary date* is defined as 12 months from the effective date of the family’s last annual reexamination or, during a family’s first year in the program, from the effective date of the family’s initial examination (admission).

If the family moves to a new unit, the HPHA will perform a new annual reexamination.

The HPHA also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

**Notification of and Participation in the Annual Reexamination Process**

The HPHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the HPHA. However, the HPHA shall give tenants who were not provided the opportunity the option to complete Form HUD 90026_HUD-92006 at this time [Notice PIH 2009-3 6].
**HPHA Policy**

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or co-head as well as any other adult members of the household. If participation in an in-person interview poses a hardship because of a family member’s disability, the family should contact the HPHA to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact the HPHA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the HPHA will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without HPHA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family’s address of record, and to any alternate address provided in the family’s file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the HPHA must execute a certification attesting to the role and assistance of any such third party.

**11-I.C. CONDUCTING ANNUAL REEXAMINATIONS**

As part of the annual reexamination process, families are required to provide updated information to the HPHA regarding the family’s income, expenses, and composition [24 CFR 982.551(b)].

**HPHA Policy**

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a HPHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family’s income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.
If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person’s disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), the HPHA must issue the family a new voucher, and the family and the HPHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the HPHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]

Section 327 of Public Law 109-115 established new restrictions on the ongoing eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student’s eligibility must be reexamined along with the income eligibility of the student’s parents on an annual basis. In these cases, both the student and the student’s parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from his or her parents in accordance with HPHA policy, the income of the student’s parents will not be considered in determining the student’s ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.
**HPHA Policy**

During the annual reexamination process, the HPHA will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student’s individual income as well as the income of the student’s parents. If the student has been determined “independent” from his/her parents based on the policies in Sections 3-II.E and 7-II.E, the parents’ income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student’s assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), the HPHA will process a reexamination in accordance with the policies in this chapter.

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**11-I.E. EFFECTIVE DATES**

The HPHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.5 16].

**HPHA Policy**

In general, an increase in the family share of the rent that results from an annual reexamination will take effect on the family’s anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the HPHA chooses to schedule an annual reexamination for completion prior to the family’s anniversary date for administrative purposes, the effective date will be determined by the HPHA, but will always allow for the 30-day notice period.
If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family’s anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the HPHA chooses to schedule an annual reexamination for completion prior to the family’s anniversary date for administrative purposes, the effective date will be determined by the HPHA.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the HPHA by the date specified, and this delay prevents the HPHA from completing the reexamination as scheduled.

**PART II: INTERIM REEXAMINATIONS [24 CFR 982.516] 11-II.A.**

**OVERVIEW**

Family circumstances may change throughout the period between annual reexaminations. HUD and PHA policies dictate HPHA kinds of information about changes in family circumstances must be reported, and under HPHA circumstances the PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying HPHA information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family’s income or composition changes. The PHA must complete the interim reexamination within a reasonable time after the family’s request.
This part includes HUD and PHA policies describing HPHA changes families are required to report, HPHA changes families may choose to report, and how the PHA will process both PHA- and family-initiated interim reexaminations.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The PHA must adopt policies prescribing when and under HPHA conditions the family must report changes in family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

**HPHA Policy**

The HPHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

**New Family Members Not Requiring Approval**

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 982.55 1(h)(2)].

**HPHA Policy**

The family must inform the HPHA of the birth, adoption or court-awarded custody of a child within 10 business days.

**New Family and Household Members Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 982.551 (h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551 (h)(4)].

When any new family member is added, the PHA must conduct a reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.5 16(e)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the family’s HAP contract in accordance with its terms [24 CFR 982.403].
**HPA Policy**

Families must request HPHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 cumulative days, within a 12-month period and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by the HPHA prior to the individual moving in the unit.

The HPHA will not approve the addition of a new family or household member unless:

- The individual meets the HPHA’s eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

The HPHA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the HPHA determines an individual meets the HPHA’s eligibility criteria and documentation requirements, the HPHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued a voucher and will be required to move.

If the HPHA determines that an individual does not meet the HPHA’s eligibility criteria or documentation requirements, the HPHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The HPHA will make its determination within 10 business days of receiving all information required to verify the individual’s eligibility.

**Departure of a Family or Household Member**

Families must promptly notify the PHA if any family member no longer lives in the unit [24 CFR 982.55 1(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

**HPA Policy**

If a household member ceases to reside in the unit, the family must inform the HPHA within 10 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent. Documentation such as a lease or utility bill confirming the family member’s new residence will be required to confirm that the family member is no
longer present. This will be required prior to removing the family member’s income source.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the HPHA within 10 business days.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

PHA-Initiated Interim Reexaminations

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

HPHA Policy

The HPHA will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), the HPHA will conduct an interim reexamination at the start and conclusion of the second 12 month exclusion period (50 percent phase-in period).

If the family has reported zero income lasting 3 months, the HPHA will conduct an interim reexamination and require that the family complete the zero income questionnaire. The family’s income will then be determined based on the result of said questionnaire and that income will be used to determine the family’s share of the rent until the next recertification, or reported income change.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the HPHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the HPHA will conduct an interim reexamination.

The HPHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.
Family-Initiated Interim Reexaminations

The PHA must adopt policies prescribing when and under HPHA conditions the family must report changes in family income or expenses [24 CFR 982.5 16(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.5 16(b)(2)].

HPHA Policy

Families are required to report all increases or decreases in earned income, including new employment, within 10 business days of the date the change takes effect.

The HPHA will conduct interim reexaminations and will make appropriate adjustments.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

HPHA Policy

The family may notify the HPHA of changes either orally or in writing. If the family provides oral notice, the HPHA will also require the family to submit the changes in writing by signing the rent change package.

Generally, the family will not be required to attend an interview for an interim Re-examination, but must sign the required notification forms. However, if the HPHA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the HPHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the HPHA. This time frame may be extended for good cause with HPHA approval. The HPHA will accept required documentation by mail, by fax, or in person.

Effective Dates

The HPHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.5 16(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

HPHA Policy
If the family share of the rent is to *increase*:

The increase generally will be effective on the first day of the second month following the date that the event causing the increase and 30 days’ notice to the family.

If a family fails to report a change within the required time frame (10 days), the increase will be applied retroactively, but rather than being effective on the first day of the second month following the date of the event causing the increase, it will become effective on the first day of the first month following the event causing the increase. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16. (30 days’ notice will still be provided, but family will be responsible to repay to the HPHA prior month’s over payments of HAP)

If the family share of the rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

**PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT 1 1-III.A.**

**OVERVIEW**

After gathering and verifying required information for an annual or interim reexamination, the HPHA must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

**11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES**

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the HPHA’s calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.
Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the HPHA changes its payment standards or the family’s situation changes, new payment standards are applied at the following times:

- If the HPHA’s payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
  - If the payment standard amount has increased, the increased payment standard will be applied at the first annual reexamination following the effective date of the increase in the payment standard.
  - If the payment standard amount has decreased, the decreased payment standard will be applied at the second annual reexamination following the effective date of the decrease in the payment standard.

- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA’s subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family’s first annual reexamination following the change in family unit size.

Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family’s utility arrangement with the owner, or in the HPHA’s utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.
At reexamination, the PHA must use the PHA current utility allowance schedule [24 CFR 982.5 17(d)(2)].

HPHA Policy

Revised utility allowances will be applied to a family’s rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the PHA’s determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

HPHA Policy

The notice to the family will include the family share of the rent and the housing assistance payment and the effective date. The notice also will state the procedures for requesting an informal hearing.

11-III.D. DISCREPANCIES

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the HPHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.
Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which a PHA can terminate a family’s assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

**Part I: Grounds for Termination of Assistance.** This part discusses various reasons that a family’s assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by the PHA based on the family’s behavior.

**Part II: Approach to Termination of Assistance.** This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that the PHA may consider in lieu of termination, the criteria the HPHA must use when deciding HPHA action to take, and the steps the PHA must take when terminating a family’s assistance.
Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner’s right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE 12-I.A.

OVERVIEW

HUD requires the PHA to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits the PHA to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying the PHA.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family’s income increases, the amount of PHA subsidy goes down. If the amount of HCV assistance provided by the PHA drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

HPHA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify the HPHA of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the PHA terminate the family's assistance at any time.

HPHA Policy

The request to terminate assistance should be made in writing and signed by the head of household, spouse, or co-head. Before terminating the family’s assistance, the HPHA will follow the notice requirements in Section 12-II.F.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the PHA to terminate assistance in the following circumstances.

The PHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. Incidents of actual or threatened violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

**HPHA Policy**

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary and assistance will be terminated.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. However, the HPHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in Section 12-II.C and other factors as described in Sections 12-II.E. Upon consideration of such alternatives and factors, the HPHA may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

**Failure to Provide Consent [24 CFR 982.552(b)(3)]**

The PHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

**Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]**

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member’s citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.
For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family’s assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

**Failure to Disclose and Document Social Security Numbers [24 CFR 5.2 18(c), Notice PIH 2010-3]**

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security number of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the HPHA determines that the family’s failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family’s control, the PHA may defer the family’s termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

**HPHA Policy**

The HPHA will defer the family’s termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant’s control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

**Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]**

The HPHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

**Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]**

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with his/her parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the PHA must the terminate the student’s assistance if, at the time of reexamination, either the student’s income or the income of the student’s parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and PHA policies, or must be given the opportunity to
lease in place if the terminated ineligible student members elect to move out of the assisted unit.

**Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-9]**

The PHA must immediately terminate program assistance for deceased single member households.

**12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]**

HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member’s abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family’s obligation not to engage in any drug-related criminal activity
- Any household member has violated the family’s obligation not to engage in violent criminal activity
- Any member of the household is obligated to register with any State as a sex offender

**Use of Illegal Drugs and Alcohol Abuse**

**HPHA Policy**

The HPHA will terminate a family’s assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The HPHA will terminate assistance if any household member’s abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

The HPHA will terminate a family’s assistance if any member is obligated to register as a sex offender.

*Currently engaged in* is defined as any use of illegal drugs during the previous six months.
The HPHA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

In making its decision to terminate assistance, the HPHA will consider alternatives as described in Section 1 2-II.C and other factors described in Sections 1 2-II.D and 1 2-II.E. Upon consideration of such alternatives and factors, the HPHA may, on a case-by-case basis, choose not to terminate assistance.

**Drug-Related and Violent Criminal Activity [24 CFR 5.100]**

*Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

*Drug-related criminal activity* is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

*Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

**HPHA Policy**

The HPHA will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The HPHA will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, the HPHA will consider alternatives as described in Section 1 2-II.C and other factors described in Sections 1 2-II.D and 1 2-II.E. Upon consideration of such alternatives and factors, the HPHA may, on a case-by-case basis, choose not to terminate assistance.

**Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), Pub.L. 109-162]**
HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance. The Violence Against Women Reauthorization Act of 2005 explicitly prohibits PHAs from considering incidents or actual threatened domestic violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such violence.

**HPHA Policy**

The HPHA **will not** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency program.

The HPHA **will** terminate a family's assistance if:

- The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related HPHA policies.
- Any family member has been evicted from federally-assisted housing in the last five years.
- Any PHA has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family currently owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.
- The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with the PHA.
- A family member has engaged in or threatened violent or abusive behavior toward PHA personnel.

*Abusive or violent behavior towards PHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

*Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
In making its decision to terminate assistance, the HPHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the HPHA may, on a case-by-case basis, choose not to terminate assistance.

**Family Absence from the Unit [24 CFR 982.312]**

The family may be absent from the unit for brief periods. The HPHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

**HPHA Policy**

If the family is absent from the unit for more than 180 consecutive calendar days, the family’s assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.E.

**Insufficient Funding [24 CFR 982.454]**

The HPHA may terminate HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

**HPHA Policy**

The HPHA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the HPHA determines there is a shortage of funding, prior to terminating any HAP contracts, the HPHA will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the HPHA will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the HPHA will inform the local HUD field office. The HPHA will terminate the minimum number needed in order to reduce HAP costs to a level within the HPHA’s annual budget authority.

The HPHA will provide the greatest possible notice to HCV participants of suspension/terminations, but reserves the right to allow a minimum of thirty-day (30)
notice. The following participants shall be exempt from suspension or termination due to insufficient funding:

- Elderly (62 years of age or older);
- Permanently disabled;
- HCV Homeownership families, unless fifty (50%) percent of the mortgage balance from the original date of purchase has been paid;
- Family Self-Sufficiency participants.

Participants shall be selected for suspension/termination based on the following criteria:

- Participants who pay seventy-five (75%) percent or more of their contract rent;
- Participants with assets (as defined by HUD) of $50,000.00 (fifty thousand dollars and 00/100) or more;
- Participants whose most current interim or annual recertification reflects zero (0) income for more than six months.

After the amount of necessary suspensions/terminations is determined based on budgetary information, the HPHA will review all files based on the above noted criteria. In the event there are insufficient participants in any of the above categories, a random lottery shall be instituted with all participants who are not in the exempt categories noted above.

Participants who are subject to a temporary suspension or termination shall be permitted to apply for public housing, regardless of the status of the public housing waiting list. Their file shall be documented with the reason for the exception if the waiting list is closed. If during the following twelve-month period following the suspension, the HCV subsidy is reinstated; their name shall be immediately removed from the public housing waiting list. If the suspension is longer than twelve months, the family shall be permitted to remain on the public housing waiting list.

If and when funding should become available, the number of participants to be reinstated shall be determined by the HPHA according to the amount of monies available. When considering reinstatement to the program, the selection process shall be as follows and in the following order:

1. Homelessness – For purposes of defining homelessness for reinstatement from suspension/termination, this shall not include any person or persons who have a nighttime residence. Homelessness shall specifically mean living (a) on the
street, (b) in a shelter, or (c) in a motel. Verification of homelessness shall be required;
2. Families with the lowest income;
3. Families with children under eighteen (18) years of age;
4. Single families with no children.

If there are more reinstatements than those which fall into the above categories, a lottery shall be initiated for reinstatement.

PART II: APPROACH TO TERMINATION OF ASSISTANCE 12-II.A.

OVERVIEW

The PHA is required by regulation to terminate a family’s assistance if certain program rules are violated. For other types of offenses, the regulations give the PHA the discretion to either terminate the family’s assistance or to take another action. This part discusses the various actions the PHA may choose to take when it has discretion, and outlines the criteria the PHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

The way in which the PHA terminates assistance depends upon individual circumstances. HUD permits the PHA to terminate assistance by:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to approve a request for tenancy or to enter into a new HAP contract, or
- Refusing to process a request for or to provide assistance under portability procedures.

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, the HPHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

HPHA Policy
As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member’s current address upon HPHA request.

**Repayment of Family Debts**

**HPHA Policy**

If a family owes amounts to the HPHA, as a condition of continued assistance, the HPHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the HPHA of the amount owed. See Chapter 16 for policies on repayment agreements.

**12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE**

**Evidence**

For criminal activity, HUD permits the HPHA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

**HPHA Policy**

The HPHA will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

*Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence

**Consideration of Circumstances [24 CFR 982.552(c)(2)(i)]**

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family’s assistance should be terminated.

**HPHA Policy**

The HPHA will consider the following factors when making its decision to terminate assistance:
The seriousness of the case, especially with respect to how it would affect other residents.

The effects that termination of assistance may have on other members of the family who were not involved in the action or failure.

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, or stalking.

The length of time since the violation occurred, the family’s recent history and the likelihood of favorable conduct in the future.

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.

The HPHA will require the participant to submit evidence of the household member’s current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

**Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]**

If the family includes a person with disabilities, the PHA’s decision to terminate the family’s assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

**HPHA Policy**

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the HPHA will determine whether the behavior is related to the disability. If so, upon the family’s request, the HPHA will determine whether alternative measures are appropriate as a reasonable accommodation. The HPHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.
12-II.E. TERMINATING THE ASSISTANCE OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING VICTIMS AND PERPETRATORS [24 CFR 5.2005]

The Violence Against Women Reauthorization Act of 2005 (VAWA) provides that “criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control shall not be a cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant’s family is the victim or threatened victim of that domestic violence, dating violence, or stalking.”

VAWA also gives PHAs the authority to “terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.”

VAWA does not limit the authority of the PHA to terminate the assistance of any participant if the PHA “can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance.” However, situations where this might be relevant are extremely rare.

**HPHA Policy**

In determining whether a participant who is a victim of domestic violence, dating violence, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the HPHA will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within a short period of time
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location

If the tenant wishes to contest the HPHA’s determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the informal hearing.

**Victim Documentation**
**HPHA Policy**

When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant’s control and a participant or immediate family member of the participant’s family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, the HPHA will request in writing that the individual submit documentation affirming that claim. The written request will include explicit instructions on where, when, and to whom the documentation must be submitted. It will also state the consequences for failure to submit the documentation by the deadline.

The documentation will consist of a completed and signed form HUD-5 0066, Certification of Domestic Violence, Dating Violence, or Stalking. In lieu of the certification form, the HPHA will accept either of the following forms of documentation:

- A police or court record documenting the actual or threatened abuse
- Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person’s belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The HPHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice.

The individual claiming victim status must submit the requested documentation within 14 business days after receipt of the HPHA’s written request or must request an extension within that time frame. The HPHA may, at its discretion, extend the deadline for 10 business days.

If the individual provides the requested documentation within 14 business days, or any HPHA-approved extension, the HPHA will reconsider its termination decision in light of the documentation.

If the individual does not provide the requested documentation within 14 business days, or any HPHA-approved extension, the HPHA will proceed with termination of the family’s assistance in accordance with applicable law, program regulations, and the policies in this plan.
Terminating the Assistance of a Domestic Violence Perpetrator [24 CFR 5.2005(c)]

Although VAWA provides assistance termination protection for victims of domestic violence, it does not provide protection for perpetrators. VAWA gives the PHA the explicit authority to “terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others... without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.” This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the PHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance [Pub.L. 109-271]. This means that the HPHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [3/16/07 Federal Register notice on the applicability of VAWA to HUD programs].

HPHA Policy

The HPHA will terminate assistance to a family member if the HPHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, non-culpable family members.

In making its decision, the HPHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5 0066) or other documentation of abuse submitted to the HPHA by the victim in accordance with this section. The HPHA will also consider the factors in section 12-II.D. Upon such consideration, the HPHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the HPHA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

HPHA Confidentiality Requirements [24 CFR 5.2007(a)(1)(v)]

All information provided to the PHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

HPHA Policy
If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the HPHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

12-II.F. TERMINATION NOTICE [HCV GB, p. 15-7]

If a family’s assistance is to be terminated, whether voluntarily or involuntarily, the HPHA must give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated
- The effective date of the termination
- The family’s right to an informal hearing as described in Chapter 16

If a criminal record is the basis of the termination, a copy of the record must accompany the notice. A copy of the criminal record also must be provided to the subject of the record [24 CFR 982.553(d)].

**HPHA Policy**

When termination is initiated by the HPHA, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing the HPHA, 30 days’ notice will not be given. In these cases, the notice to terminate will be sent at the time the HPHA learns the family has vacated the unit.

When a family requests to be terminated from the program they must do so in writing to the HPHA (see section 12-I.C.). The HPHA will then send a confirmation notice to the family and the owner within 10 business days of the family’s request, but no later than the termination effective date (as requested by the family).

**Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]**

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member’s citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) the PHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3) above, such termination must be for a period of at least 24 months.
The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with the HPHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

HPHA Policy

The notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination.

12-II.G. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE

When the family’s assistance is terminated, the lease and HAP contract terminate automatically [Form HUD-52641].

The owner may offer the family a separate unassisted lease [HCV GB, p. 15-8].

PART III: TERMINATION OF TENANCY BY THE OWNER 12-III.A.

OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; the PHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy, and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.


During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family’s tenancy for serious or repeated violations of the terms and conditions of the lease, including failure to pay rent or other amounts due under the
lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, or stalking against that participant. This includes failure to pay rent or other amounts due under the lease. However, the PHA’s failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

**Violation of Federal, State, or Local Law**

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

**Criminal Activity or Alcohol Abuse**

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant’s control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises.

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.
The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

**Evidence of Criminal Activity**

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction, except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, or stalking and the tenant or an immediate member of the tenant’s family is the victim or threatened victim of the domestic violence, dating violence, or stalking. (See Section 12-II.E.).

**Other Good Cause**

During the initial lease term, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, “other good cause” for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner’s desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

**12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]**

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.
The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice (see Chapter 5).

**HPHA Policy**

If the eviction action is finalized in court, the owner must provide the HPHA with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

### 12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), 24 CFR 982.310(h)(4)]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner’s failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.
In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member’s current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner’s termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner’s decision to terminate tenancy for incidents related to domestic violence, dating violence, or stalking is limited by the Violence Against Women Reauthorization Act of 2005 (VAWA). (See Section 12-II.E.)

12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY’S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

Following is a listing of a participant family’s obligations under the HCV program:

- The family must supply any information that the PHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
**HPHA Policy**

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit. Security on HPHA owned properties however, is only equal to the greater of the amount of their monthly rent amount or $100 and may not be enough to cover tenant caused damages. Therefore, PBV tenants residing in HPHA owned properties may be charged for damages as incurred.

- The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

**HPHA Policy**

The HPHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner’s notice to evict.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

- The family must notify the HPHA and the owner before moving out of the unit or terminating the lease.

**HPHA Policy**

The family must comply with lease requirements regarding written notice to the owner.

The family must provide written notice to the HPHA at the same time the owner is notified.

- The family must promptly give the PHA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family’s only residence.
- The composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit.

**HPHA Policy**
The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The HPHA will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the PHA in writing if any family member no longer lives in the unit.
- If the PHA has given approval, a foster child or a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

**HPHA Policy**

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the PHA when the family is absent from the unit.

**HPHA Policy**

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the HPHA at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.
• Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.

• An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.

• A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

Chapter 13
OWNERS

INTRODUCTION
Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV program.

The chapter is organized in two parts:

   Part I: Owners in the HCV Program. This part discusses the role of an owner in the PHA’s HCV program and highlights key owner rights and responsibilities.
Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between the PHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including PHA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

PART I. OWNERS IN THE HCV PROGRAM

13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6] Recruitment

PHAs are responsible for ensuring that very low income families have access to all types and ranges of affordable housing in the PHA’s jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA’s jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, the PHA must identify and recruit new owners to participate in the program.

HPHA Policy

The HPHA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The HPHA will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to property owners and managers
- Contacting property owners and managers by phone or in-person
- Holding owner recruitment/information meetings at least once a year
- Participating in community based organizations comprised of private property and apartment owners and managers
- Developing working relationships with owners and real estate brokers associations

Outreach strategies will be monitored for effectiveness, and adapted accordingly.

Retention
In addition to recruiting owners to participate in the HCV program, the PHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

**HPHA Policy**

All HPHA activities that may affect an owner’s ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The HPHA will provide owners with a handbook that explains the program, including HUD and HPHA policies and procedures, in easy-to-understand language.

The HPHA will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated HPHA contact person.
- Coordinating inspection and leasing activities between the HPHA, the owner, and the family.
- Initiating telephone contact with the owner to explain the inspection process, and providing an inspection booklet and other resource materials about HUD housing quality standards.
- Providing other written information about how the program operates, including answers to frequently asked questions.

Additional services may be undertaken on an as-needed basis, and as resources permit.

**13-I.B. BASIC HCV PROGRAM REQUIREMENTS**

HUD requires the PHA to aid families in their housing search by providing the family with a list of landlords or other parties known to the PHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the PHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(1 1)].

**HPHA Policy**

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the HPHA. The HPHA will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet.
When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. The PHA has no liability or responsibility to the owner or other persons for the family’s behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RFTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program’s requirements. When submitted to the PHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RFTA is a copy of the owner’s proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD’s Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.3 05(a)]. The HPHA will inspect the owner’s dwelling unit at various stages of HCV program participation, to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards, as well as the process for HQS inspections at initial lease-up and throughout the family’s tenancy.

The PHA must determine that the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.
At initial lease-up of a unit, the PHA must determine that the share of rent to be paid by the family does not exceed 40 percent of the family’s monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. However, the HCV program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The PHA and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HAP contract execution process. Specific HAP contract provisions and responsibilities are discussed later in this chapter 13.

13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Performing all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the PHA information required under the HAP contract
- Collecting from the family any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the housing assistance payment from the PHA), and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services (unless paid by the family under the lease)
- Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
• Comply with the Violence Against Women Reauthorization Act of 2005 (VAWA) when screening and terminating tenants.

13-I.D. OWNER QUALIFICATIONS

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

The PHA must not approve the assisted tenancy if the PHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the PHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]

The PHA must not approve an RFTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The PHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]

The PHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

• Any present or former member or officer of the PHA (except a participant commissioner)
• Any employee of the HPHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs
• Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
• Any member of the Congress of the United States
HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The PHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the PHA must include [HCV Guidebook pp.1 1-2 and 11-3]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, the PHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state’s attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the PHA or assistance under the HCV program for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer, or employee of the PHA, description of the nature of the investment, including disclosure/divestiture plans.

Where the PHA has requested a conflict of interest waiver, the PHA may not execute the HAP contract until HUD has made a decision on the waiver request.

**HPHA Policy**

In considering whether to request a conflict of interest waiver from HUD, the HPHA will consider factors the reasons for waiving the requirement; consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.
Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

HUD regulations permit the PHA, at the PHA’s discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If the PHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner’s properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

**HPHA Policy**

The HPHA will refuse to approve a request for tenancy if the HPHA becomes aware that any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that:
  - (i) Threatens the right to peaceful enjoyment of the premises by other residents;
  - (ii) Threatens the health or safety of other residents, of employees of the HPHA, or of owner employees or other persons engaged in management of the housing;
  - (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or
  - (iv) Is drug-related criminal activity or violent criminal activity;
- The owner has a history or practice of renting units that fail to meet state or local housing codes; or
The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the HPHA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, the HPHA may, on a case-by-case basis, choose to approve an owner.

**Legal Ownership of Unit**

The following represents HPHA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

**HPHA Policy**

The HPHA will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year).

**13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]**

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the HPHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

**PART II. HAP CONTRACTS**

**13-II.A. OVERVIEW**

The HAP contract represents a written agreement between the PHA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner’s responsibilities under the program, as well as the PHA’s obligations. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit.
The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and lease the space. See chapter 15 for a discussion of any special housing types included in the HPHA’s HCV program.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

13-II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic **contract information** about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by owner and tenant, signatures of HPHA and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, the PHA does have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. PHA policy on the amount of security deposit an owner may collect is found in chapter 9.

In addition, the PHA does have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the WHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner).

**HPHA Policy**

The HPHA has not adopted a policy that defines when the housing assistance payment by the HPHA is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the
requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- HPHA Payment to Owner
- Prohibition of Discrimination
- Owner’s Breach of HAP Contract
- HPHA and HUD Access to Premises and Owner’s Records
- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. The owner must sign the HUD Tenancy Addendum with the prospective tenant, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

13-II.C. HAP CONTRACT PAYMENTS General

During the term of the HAP contract, and subject to the provisions of the HAP contract, the PHA must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.
The amount of the HAP payment is determined according to the policies described in Chapter 6, and is subject to change during the term of the HAP contract. The PHA must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the PHA is credited toward the monthly rent to owner under the family’s lease. The total of the rent paid by the tenant, plus the PHA HAP payment, should be equal to the rent specified in the lease (the rent to owner).

The family is not responsible for payment of the HAP payment, and the PHA is not responsible for payment of the family share of rent.

The family’s share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the PHA, the excess amount must be returned immediately. If the PHA determines that the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

**Owner Certification of Compliance**

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By endorsing the monthly check from the PHA, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner’s knowledge, the family resides in the unit as the family’s only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

**Late HAP Payments [24 CFR 982.451(a)(5)]**
The PHA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for penalties if the PHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner’s normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family’s share of the rent.

The PHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the PHA’s control. In addition, late payment penalties are not required if the PHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

**Termination of HAP Payments [24 CFR 982.311(b)]**

The PHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

**HPHA Policy**

The owner must inform the HPHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the HPHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the HPHA with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the HPHA will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform the HPHA of the date when the family actually moves from the unit or the family is physically evicted from the unit.
13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS
- If the owner has violated any obligation under any other HAP contract under Section 8
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan
- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

If the PHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The PHA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination the HAP contract. The PHA may also obtain additional relief by judicial order or action.

The PHA must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The PHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

**HPHA Policy**

Before the HPHA invokes a remedy against an owner, the HPHA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the HPHA will conduct an audit of the owner’s records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the HPHA will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner’s record of compliance and the number and seriousness of any prior HAP contract violations.
13-II.E. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.45 1(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- The PHA terminates the HAP contract;
- The PHA terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the PHA made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the PHA;
- The Annual Contributions Contract (ACC) between the PHA and HUD expires
- The PHA elects to terminate the HAP contract.

**HPHA Policy**

The HPHA may elect to terminate the HAP contract in each of the following situations:

- Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];
- The unit does not meet HQS size requirements due to change in family composition [24 CFR 9 82.403] – see chapter 8;
- The unit does not meet HQS [24 CFR 982.404] – see chapter 8;
- The family breaks up [HUD Form 52641] – see chapter 3;
- The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If the HPHA terminates the HAP contract, the HPHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the
termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg. 15-4].

HPHA Policy

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the HPHA gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to the HPHA any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]

The HAP contract cannot be assigned to a new owner without the prior written consent of the PHA.

An owner under a HAP contract must notify the PHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the PHA.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement.

HPHA Policy

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

The HPHA must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner’s request, the HPHA will inform the current owner in writing whether the assignment may take place.
The new owner must provide a written certification to the HPHA that includes:

A copy of the escrow statement or other document showing the transfer of title and recorded deed;

A copy of the owner’s IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;

The effective date of the HAP contract assignment;

A written agreement to comply with the terms of the HAP contract; and confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the HPHA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the HPHA will process the leasing in accordance with the policies in chapter 9.

Chapter 14

PROGRAM INTEGRITY

INTRODUCTION

The HPHA is committed to ensuring that subsidy funds made available to the WHA are spent in accordance with HUD requirements.

This chapter covers HUD and HPHA policies designed to prevent, detect, investigate, and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents HPHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the HPHA must and may take when errors or program abuses are found.
PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and program abuse. PHAs are required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

- Provide applicants and participants with form HUD-52675, “Debts Owed to PHAs and Terminations”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

HPHA Policy

The HPHA anticipates that the vast majority of families, owners, and HPHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the WHA’s HCV program is administered effectively and according to the highest ethical and legal standards, the HPHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The HPHA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The HPHA will provide each applicant and participant with a copy of “Is Fraud Worth It?” (form HUD-1 141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

The HPHA will provide each applicant and participant with a copy of “HPHA You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19. In addition, the HPHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

The HPHA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key HPHA forms and form letters that request information from a family or owner.

HPHA staff will be required to review and explain the contents of all HUD- and HPHA-required forms prior to requesting family member signatures.
The HPHA may require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

The HPHA will provide each HPHA employee with the necessary training on program rules and the organization’s standards of conduct and ethics.

For purposes of this chapter the term error refers to an unintentional error or omission. Program abuse or fraud refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

14-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the HPHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the PHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

HPHA Policy

In addition to the SEMAP quality control requirements, the HPHA will employ a variety of methods to detect errors and program abuse.

The HPHA routinely will use available sources of up-front income verification, including HUD’s EIV system, to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

The HPHA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and
automated monitoring of HPHA activities and notifies the HPHA of errors and potential cases of program abuse.

**HPHA Policy**

The HPHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the HPHA’s error detection and abuse prevention efforts.

**Individual Reporting of Possible Errors and Program Abuse**

**HPHA Policy**

The HPHA will encourage staff, program participants, and the public to report possible program abuse.

**14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE When the HPHA Will Investigate**

**HPHA Policy**

The HPHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the HPHA to investigate, the allegation must contain at least one independently-verifyable item of information, such as the name of an employer or the name of an unauthorized household member.

The HPHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

**Consent to Release of Information [24 CFR 982.516]**

The HPHA may investigate possible instances of error or abuse using all available HPHA and public records. If necessary, the HPHA will require HCV families to give consent to the release of additional information.

**Analysis and Findings**

**HPHA Policy**

The HPHA will base its evaluation on a preponderance of the evidence collected during its investigation.
Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation the HPHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the HPHA, and (3) HPHA corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the HPHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

HPHA Policy

In the case of family-caused errors or program abuse, the HPHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the HPHA will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

HPHA Policy

The HPHA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the HPHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family’s right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).
PART II: CORRECTIVE MEASURES AND PENALTIES 14-II.A.

SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the HPHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

HPHA Policy

Increases in the family share will be implemented only after the family has received 30 days notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse the HPHA or the HPHA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

Family Reimbursement to PHA [HCV GB pp. 22-12 to 22-13]

HPHA Policy
In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The HPHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, the HPHA will terminate the family’s assistance in accordance with the policies in Chapter 12.

**PHA Reimbursement to Family [HCV GB p. 22-12]**

**HPHA Policy**

The HPHA will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

**Prohibited Actions**

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

**HPHA Policy**

Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by the HPHA for rent, security deposit, and additional services
- Offering bribes or illegal gratuities to the HPHA Board of Commissioners, employees, contractors, or other HPHA representatives
- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the HPHA on the family’s behalf
- Use of a false name or the use of falsified, forged, or altered documents
- Intentional misreporting of family information or circumstances (e.g. income, family composition)
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income)
- Admission of program abuse by an adult family member
The HPHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay excess subsidy amounts paid by the PHA, as described earlier in this section.
- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- The PHA may deny or terminate the family’s assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The PHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.

14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to the HPHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the WHA any excess subsidy received. The HPHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the HPHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

HPHA Policy

In cases where the owner has received excess subsidy, the HPHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.
**Prohibited Owner Actions**

An owner participating in the HCV program must not:

- Make any false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:
  
  **HPHA Policy**

  Any of the following will be considered evidence of owner program abuse:

  - Charging the family rent above or below the amount specified by the HPHA
  - Charging a security deposit other than that specified in the family’s lease
  - Charging the family for services that are provided to unassisted tenants at no extra charge
  - Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit
  - Knowingly accepting incorrect or excess housing assistance payments
  - Offering bribes or illegal gratuities to the HPHA Board of Commissioners, employees, contractors, or other HPHA representatives
  - Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the HPHA
  - Residing in the unit with an assisted family

**Remedies and Penalties**

When the PHA determines that the owner has committed program abuse, the PHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any PHA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-II.D. PHA- CAUSED ERRORS OR PROGRAM ABUSE
The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

**Repayment to the PHA**

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by PHA staff [HCV GB. 22-12].

**PHA Reimbursement to Family or Owner**

The PHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the PHA’s administrative fee reserves [HCV GB p. 22-12].

**Prohibited Activities**

**HPHA Policy**

Any of the following will be considered evidence of program abuse by HPHA staff:

- Failing to comply with any HCV program requirements for personal gain
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the HPHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of HPHA activities, policies, or practices
- Misappropriating or misusing HCV funds
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program
Committing any other corrupt or criminal act in connection with any federal housing program

14-II.E. CRIMINAL PROSECUTION

HPHA Policy

When the HPHA determines that program abuse by an owner, family, or HPHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the HPHA will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES

The PHA may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The PHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the PHA to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the PHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the PHA related to the collection, these costs must be deducted from the amount retained by the PHA.
Chapter 15

SPECIAL HOUSING TYPES

[24 CFR 982 Subpart M]

INTRODUCTION

The PHA may permit a family to use any of the special housing types discussed in this chapter. However, the PHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that the PHA must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The PHA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

HPHA Policy

With the exception of the homeownership program, families will not be permitted to use any special housing types, unless use is needed as a reasonable accommodation so that the program is readily accessible to a person with disabilities.

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR 982.601].

This chapter consists of the following seven parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

Part I: Single Room Occupancy

Part II: Congregate Housing

Part III: Group Homes

Part IV: Shared Housing

Part V: Cooperative Housing

Part VI: Manufactured Homes (including manufactured home space rental)

Part VII: Homeownership
PART I: SINGLE ROOM OCCUPANCY
[24 CFR 982.602 through 982.605]

15-I.A. OVERVIEW
A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used.

15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION
The payment standard for SRO housing is 75 percent of the 0-bedroom payment standard amount on the HPHA’s payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

15-I.C. HOUSING QUALITY STANDARDS (HQS)
HQS requirements described in Chapter 8 apply to SRO housing except as modified below.

- **Access**: Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.

- **Fire Safety**: All SRO facilities must have a sprinkler system that protects major spaces. “Major spaces” are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards the requirements discussed below apply [24 CFR 982.605].
• **Sanitary Facilities**: At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway, and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.

• **Space and Security**: An SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

**PART II: CONGREGATE HOUSING**

[24 CFR 982.606 through 982.609]

15-II.A. OVERVIEW

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

If approved by the HP HA, a family member or live-in aide may reside with the elderly person or person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-II.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA must use the payment standard for a 0-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the PHA must use the 1-bedroom payment standard.
The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident’s monthly housing expense only. The residents’ costs for food service should not be included in the rent for a congregate housing unit.

15-II.C. HOUSING QUALITY STANDARDS

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below.

Congregate housing must have (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and (3) food service for the residents, that is not provided by the residents themselves.

The housing quality standards applicable to lead-based paint do not apply.

PART III: GROUP HOME

15-III.A. OVERVIEW

A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the PHA, a live-in aide may live in the group home with a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.
15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be 0- or 1-bedroom, depending on the PHA’s subsidy standard. If there is a live-in aide, the aide must be counted in determining the household’s unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the prorated share of the payment standard for the group home size. The prorated share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the prorated share of the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the prorated portion of the reasonable rent for the group home. In determining reasonable rent, the HPHA should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

15-III.C. HOUSING QUALITY STANDARDS

HQS requirements described in Chapter 8 apply to group homes except for the requirements stated below.

- **Sanitary Facilities**: A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.

- **Food Preparation and Service**: Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.

- **Space and Security**: Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.
• **Structure and Material:** To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.

• **Site and Neighborhood:** Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
  - Dangerous walks or steps
  - Instability
  - Flooding, poor drainage
  - Septic tank back-ups
  - Sewage hazards
  - Mud slides
  - Abnormal air pollution
  - Smoke or dust
  - Excessive noise
  - Vibrations or vehicular traffic
  - Excessive accumulations of trash - Vermin or rodent infestation, and
  - Fire hazards.

The housing quality standards applicable to lead-based paint do not apply.

**PART IV: SHARED HOUSING** [24 CFR 982.615 through 2.618]

**15-IV.A. OVERVIEW**

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.
If approved by the PHA, a live-in aide may reside with the family to care for a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-IV.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the prorated share of the payment standard for the shared housing unit size.

The prorated share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted family living in shared housing is the prorated share of the utility allowance for the shared housing unit.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the HPHA should consider whether sanitary and food preparation areas are private or shared.

15-IV.C. HOUSING QUALITY STANDARDS

The HPHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

- **Facilities Available for the Family:** Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.

- **Space and Security:** The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A 0-bedroom or 1-bedroom unit may not be used for shared housing.
PART V: COOPERATIVE HOUSING

[24 CFR 982.619]

15-V.A. OVERVIEW

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged “rent” a cooperative member is charged a “carrying charge.”

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used.

15-V.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard and utility allowance are determined according to regular HCV program requirements.

The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the monthly carrying charge for the unit, plus any utility allowance, minus the TTP. The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

15-V.C. HOUSING QUALITY STANDARDS

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements.
PART VI: MANUFACTURED HOMES
[24 CFR 982.620 through 982.624]

15-VI.A. OVERVIEW

A manufactured home is a manufactured structure, transportable in one or more parts, which is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in two different ways.

(1) A family can choose to rent a manufactured home already installed on a space and the PHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below.

(2) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space. The PHA may, but is not required to, provide assistance for such families.

15-VI.B. SPECIAL POLICIES FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE

Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family’s equity in the manufactured home in which the family resides is not counted as a family asset.

Lease and HAP Contract

There is a separate Tenancy Addendum (Form 52642-a) and separate HAP Contract (Form 52642) for this special housing type.

15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION Payment Standards

The FMR for a manufactured home space is generally 40 percent of the published FMR for a 2-bedroom unit or, where approved by HUD, the 40th percentile of the rental distribution of manufactured home spaces for the FMR area. The PHA may establish a payment standard for manufactured home spaces that is between 90-110 percent of the FMR for manufactured home spaces.
Utility Allowance

The PHA must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hookup charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

Space Rent

The space rent is the sum of the rent to the owner for the manufactured home space, any charges for maintenance and management provided by the owner, and the utility allowance for tenant-paid utilities.

Housing Assistance Payment

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the (gross) manufactured home space rent minus the TTP.

Rent Reasonableness

Initially, and annually thereafter the PHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The PHA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly HAP check, the owner certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the Manufactured Home Park or elsewhere.

15-VI.D. HOUSING QUALITY STANDARDS

Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

Manufactured Home Tie-Down

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.
PART VII: HOMEOWNERSHIP

[24 CFR 982.625 through 982.643]

15-VII.A. OVERVIEW [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option must be an existing participant in the HCV program. The PHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

There are two forms of homeownership assistance the PHA may offer under this option: monthly homeownership assistance payments or a single down payment assistance grant.

The PHA may choose to offer either or both forms of homeownership assistance, or choose not to offer either. If the PHA offers both forms of assistance, a family must choose which form of assistance to receive.

The homeownership option is limited to one percent (1%) of the total Section 8 Voucher Program administered by the PHA in any fiscal year, provided that disabled families shall not be subject to the one percent (1%) limit. If applicants exceed the one percent (1%) limit, participants in the PHA’s Family Self-Sufficiency (FSS) Program shall receive a priority for participation in the homeownership program.

The PHA must offer either form of homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA must determine if HPHA is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.
The HPHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

15-VII.B. FAMILY ELIGIBILITY [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance. The PHA may also establish additional initial requirements as long as they are described in the PHA administrative plan.

- The family must have been admitted to the Housing Choice Voucher program.
- The family must qualify as a first-time homeowner, or may be a cooperative member.
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. The PHA may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the HPHA’s requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit.
- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.
- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the HPHA must grant an exemption from the employment requirement if the HPHA determines that it is needed as a reasonable accommodation.
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option.
- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership
interest in a residence at the commencement of homeownership assistance for the purchase of any home.

- Except for cooperative members who have acquired cooperative membership shares prior the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.63 1(c).
- The family has not had any family-caused violations of HUD’s Housing Quality Standards within the past three (3) years.
- The family has not committed any serious or repeated violations of a PHA-assisted lease within the past 3 years.
- The family must not have an outstanding debt with any housing authority.
- The family must have completed an initial lease term in the Section 8 Housing Choice Voucher program.

15-VII.C. SELECTION OF FAMILIES [24 CFR 982.626]

Applicants for the homeownership program are not required to participate in the HPHA’s FSS Program in order to participate in the homeownership program. However, in the event the applications for homeownership assistance exceed one percent (1%) of the HPHA’s total voucher program in any fiscal year, FSS participants shall have a preference for participation in the homeownership program. Participants in an Individual Development Empowerment Account (IDEA) Program, administered by an agency other than the HPHA, also will receive a preference for homeownership assistance in the event applicants for homeownership assistance exceed the one percent (1%) limitation.

15-VII.D. ELIGIBLE UNITS [24 CFR 982.628]

In order for a unit to be eligible, the PHA must determine that the unit satisfies all of the following requirements:

- The unit must meet HUD’s “eligible housing” requirements. The unit may not be any of the following:
  - A public housing or Indian housing unit;
  - A unit receiving Section 8 project-based assistance;
  - A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;
  - A college or other school dormitory;
  - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
• The unit must be under construction or already exist at the time the family enters into the contract of sale.

• The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.

• The unit must have been inspected by the HPHA and by an independent inspector designated by the family.

• The unit must meet Housing Quality Standards (see Chapter 8).

• For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.

• For PHA-owned units all of the following conditions must be satisfied:
  - The PHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a PHA-owned unit is freely selected by the family without PHA pressure or steering;
  - The unit is not ineligible housing;
  - The PHA obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any PHA provided financing.

All of these actions must be completed in accordance with program requirements.

The PHA must not approve the unit if the PHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

15-VII.E. ADDITIONAL PHA REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]

Upon approval for the Section 8 Homeownership Program, a family shall have 180 days to locate a home to purchase. A home shall be considered located if the family submits a proposed sales agreement with the requisite components to the PHA. For good cause, the PHA may extend a Section 8 family’s time to locate the home for additional 30-day increments. During a participant’s search for a home to purchase, their Section 8 rental assistance shall continue, pursuant to this Administration Plan. If a Section 8 participant family is unable to locate a home within the time approved by the PHA, their Section 8 rental assistance through the Section 8 Housing Choice Voucher Program shall continue.

Once a home is located and a sales agreement approved by the PHA is signed by the family, the family shall have up to three (3) months, or such other time as is approved by the PHA or set forth in the PHA-approved sales agreement, to complete the purchase of the home.
If a Section 8 participant is unable to purchase the home within the maximum time permitted by the PHA, the PHA shall continue the family’s participation in the Section 8 Housing Choice Voucher Program. The family may not re-apply for the Section 8 Homeownership Program until it has completed an additional year of participation in the Section 8 Housing Choice Voucher Program following the initial determination of its eligibility for the homeownership option.

Families may enter into lease-purchase agreements while receiving Section 8 rental assistance. All requirements of the Housing Choice Voucher Program apply to lease-purchase agreements, except that families are permitted to pay an extra amount out-of-pocket to the owner for purchase-related expenses – a “homeownership premium.” Any “homeownership premium”, defined as an increment of value attributable to the value of the lease-purchase right or agreement, is excluded for the PHA’s rent reasonableness determination and subsidy calculation, and must be absorbed by the family. When a lease-purchase participant family is ready to exercise their option, they must notify the Homeownership Coordinator at the PHA and apply for the homeownership option. If determined eligible for homeownership assistance, the family may be admitted to the homeownership program and must meet all the requirements of these policies.

**15-VII.F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]**

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the PHA. Pre-assistance counseling topics include:

- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about homeownership opportunities, schools, and transportation in the HPHA jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.
The PHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

The PHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the PHA offers a program of ongoing counseling for participants in the homeownership option, the PHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If the PHA does not use a HUD-approved housing counseling agency to provide the counseling, the PHA should ensure that its counseling program is consistent with the counseling provided under HUD’s Housing Counseling program.

15-VII.G. HOME INSPECTIONS, CONTRACT OF SALE, AND PHA DISAPPROVAL OF SELLER [24 CFR 982.631]

Home Inspections

The PHA may not commence monthly homeownership assistance payments or provide down payment assistance grants for a family until the PHA has inspected the unit and has determined that the unit passes HQS.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

The PHA may not require the family to use an independent inspector selected by the PHA. The independent inspector may not be a PHA employee or contractor, or other person under control of the PHA. However, the PHA may establish standards for qualification of inspectors selected by families under the homeownership option.

The PHA may disapprove a unit for assistance based on information in the independent inspector’s report, even if the unit was found to comply with HQS.

Contract of Sale

Before commencement of monthly homeownership assistance payments or receipt of a down payment assistance grant, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the PHA a copy of the contract of sale. The contract of sale must:
• Specify the price and other terms of sale by the seller to the purchaser;
• Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
• Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser and the PHA;
• Provide that the purchaser is not obligated to pay for any necessary repairs; and
• Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.

Disapproval of a Seller

In its administrative discretion, the PHA may deny approval of a seller for the same reasons the PHA may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

15-VII.H. FINANCING [24 CFR 982.632]

The family is responsible for securing financing and must submit the proposed financing terms to the PHA, and those terms must be approved by the HPHA, prior to close of escrow. The PHA shall determine the affordability of the family’s proposed financing. In making such determination, the PHA may take into account other family expenses, including but not limited to, child care, unreimbursed medical expenses, education and training expenses, and the like. The PHA will attempt to ensure that the family is successful with the purchase of the home by limiting the family’s monthly mortgage payment so that it does not exceed fifty percent (50%) of the family’s adjusted gross income. Certain types of financing, including but not limited to, balloon payment mortgages, unless convertible to a variable rate mortgage, are prohibited and will not be approved by the PHA. Seller-financing mortgages shall be considered by the PHA on a case-by-case basis. If a mortgage is not FHA-insured, the PHA will require the lender to comply with generally accepted mortgage underwriting standards consistent with those of HUD/FHA, Ginnie Mae, Fannie Mae, Freddie Mac, California Housing Finance Agency (CHFA), USDA Rural Housing Services, the Federal Home Loan Bank, or other private lending institutions.

15-VIII.I. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the PHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the HPHA the homeownership assistance for the month when the family moves out.
Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).
- The family must supply information to the PHA or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by the HPHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify the PHA before moving out of the home.
- The family must notify the PHA if the family defaults on the mortgage used to purchase the home.
- No family member may have any ownership interest in any other residential property.
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).
- The family must attend ongoing homeownership counseling, as required by the PHA.
- The family just not refinance or add debt secured by the home without prior approval of the PHA.
- The family must supply all required information to the PHA.

15-VII.J. 15- MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or
- Ten years, in all other cases. The maximum term described above applies to any member of the family who:
• Has an ownership interest in the unit during the time that homeownership payments are made; or
• Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made?

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

**15-VII.K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]**

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the PHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in elsewhere in this plan for the Housing Choice Voucher program.

The PHA may pay the homeownership assistance payments directly to the family, or at the PHA’s discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family.

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family. However, the PHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

The PHA must adopt policies for determining the amount of homeownership expenses to be allowed by the HPHA in accordance with HUD requirements.
Homeownership expenses (not including cooperatives) only include amounts allowed by the PHA to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
- Real estate taxes and public assessments on the home;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA utility allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;
- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

Homeownership expenses for a cooperative member may only include amounts allowed by the PHA to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA utility allowance for the home; and
• Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.

• Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

15-VII.L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and PHA policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program, or bill the initial PHA.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify the initial PHA if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the PHA.

15-VII.M. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

The PHA may deny permission to move to a new unit with continued voucher assistance as follows:

• Lack of funding to provide continued assistance.

• At any time, the PHA may deny permission to move with continued rental or homeownership assistance in accordance with 24 CFR 982.638, regarding denial or termination of assistance.

• In accordance with the PHA’s policy regarding number of moves within a 12-month period.

The PHA must deny the family permission to move to a new unit with continued voucher rental assistance if:

• The family defaulted on an FHA-insured mortgage; and
• The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD’s designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

15-VII.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, the PHA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

The PHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy.

The PHA must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.
Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the PHA’s policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes HPHA payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the HPHA. This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes HPHA the SEMAP scores represent, how they are established, and how those scores affect a PHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VII: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes the PHA’s responsibilities for reporting, data collection, and record keeping relative to children with elevated blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the PHA’s policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.
PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The PHA must maintain an administrative fee reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD for PHA’s fiscal year. If funds in the administrative fee reserve are not needed to cover PHA administrative expenses, the PHA may use these funds for other program related housing purposes permitted by Federal, State and local law.

If the PHA has not adequately administered any Section 8 program, HUD may prohibit use of funds in the administrative fee reserve, and may direct the PHA to use funds in the reserve to improve administration of the program or to reimburse ineligible expenses. HUD also may prohibit use of the funds for certain purposes.

HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

HPHA Policy

Expenditures from the administrative fee reserve will be made in accordance with all applicable Federal requirements. Expenditures will not exceed $10,000 per occurrence without the prior approval of the HPHA’ s Board of Commissioners.

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

16-II.A. OVERVIEW

Although many of the program’s requirements are established centrally by HUD, the HCV program’s regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- *Utility Allowances*, which specify how a family’s payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).
HPHA Policy

Copies of the payment standard and utility allowance schedules are available for review in the HPHA’s offices during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The HPHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]

The payment standard sets the maximum subsidy payment a family can receive from the PHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The PHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA’s jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the PHA may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the PHA is required to establish a payment standard within a “basic range” established by HUD – between 90 and 110 percent of the published FMR for each unit size.

Updating Payment Standards

When HUD updates its FMRs, the HPHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA’s jurisdiction are unacceptably high 24 CFR 982.503(g)].

HPHA Policy

The HPHA will review the appropriateness of the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards are always within the “basic range” the HPHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:
**Funding Availability:** The HPHA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The HPHA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

**Rent Burden of Participating Families:** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the HPHA will consider increasing the payment standard. In evaluating rent burdens, the HPHA will not include families renting a larger unit than their family unit size.

**Quality of Units Selected:** The HPHA will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

**Changes in Rent to Owner:** The HPHA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

**Unit Availability:** The HPHA will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

**Lease-up Time and Success Rate:** The HPHA will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective when the final FMRs are published. In that case, the HPHA’s payment standards will be effective October 1st.

If the HPHA has already processed reexaminations that will be effective on or after October 1st, and the effective date of the payment standards is October 1st, the HPHA will make retroactive adjustments to any such reexaminations if the new payment standard amount is higher than the one used by the HPHA at the time the reexamination was originally processed.

**Exception Payment Standards [982.503(c)]**
The PHA must request HUD approval to establish payment standards that are higher than the basic range. At HUD’s sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

**Unit-by-Unit Exceptions [24 CFR 982.503(c)(2)(ii)]**

Unit-by-unit exceptions to the PHA’s payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the PHA’s payment standard schedule.

When needed as a reasonable accommodation, the PHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 120 percent of the applicable FMR for the unit size [HCV GB 7-9]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount falls above 120 percent of the FMR.

**HPHA Policy**

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the HPHA must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family’s TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

**"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]**

If a substantial percentage of families have difficulty finding a suitable unit, the PHA may request a “success rate payment standard” that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the PHA to set its payment standards at 90-110 percent of a higher FMR (the 50th, rather than the 40th percentile FMR). To support the request,
the PHA must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;
- The PHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The PHA had a policy of allowing voucher holders who made sustained efforts to locate units, at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the PHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the PHA’s jurisdiction within the FMR area.

**Decreases in the Payment Standard below the Basic Range [24 CFR 982.503(d)]**

The PHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD’s sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

**16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]**

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the PHA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the PHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.
The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the HCV Guidebook provides detailed guidance to the PHA about establishing utility allowance schedules.

**Air Conditioning**

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

**HPHA Policy**

The majority of housing units in the HPHA’s jurisdiction do not include central air conditioning and is not wired for tenant-installed air conditioners. Therefore, the HPHA has not included an allowance for air conditioning in its utility allowance schedule.

**Reasonable Accommodation**

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA’s schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the HPHA will approve an allowance for air-conditioning, even if the HPHA has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

**Utility Allowance Revisions**

The HPHA must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

The HPHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

**PART III: INFORMAL REVIEWS AND HEARINGS 16-III.A.**

**OVERVIEW**

When the HPHA makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.
PHAs are required to include in their administrative plans, informal review procedures for applicants, and informal hearing procedures for participants [24 CFR 982.54(d)(12) and (13)].

16-III.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, p 36490).

Decisions Subject to Informal Review

The HPHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the HPHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures
- Denial of assistance based on an unfavorable history that may be the result of domestic violence, dating violence or stalking. (See Section 3-III.G.)

Informal reviews are not required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the HPHA
- General policy issues or class grievances
- A determination of the family unit size under the HPHA’s subsidy standards
- A HPHA determination not to grant approval of the tenancy
- A HPHA determination that the unit is not in compliance with the HQS
- A HPHA determination that the unit is not in accordance with the HQS due to family size or composition

HPHA Policy

The HPHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the HPHA waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.
Notice to the Applicant [24 CFR 982.554(a)]

The HPHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the HPHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

Scheduling an Informal Review

**HPHA Policy**

A request for an informal review must be made in writing and delivered to the HPHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the HPHA’s denial of assistance.

Except as provided in Section 3-III.G, the HPHA must schedule and send written notice of the informal review within 10 business days of the family’s request.

Informal Review Procedures [24 CFR 982.554(b)]

**HPHA Policy**

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the HPHA.

The person conducting the review will make a recommendation to the WHA, but the HPHA is responsible for making the final decision as to whether assistance should be granted or denied.

Informal Review Decision [24 CFR 982.554(b)]

The HPHA must notify the applicant of the HPHA’s final decision, including a brief statement of the reasons for the final decision.

**HPHA Policy**

In rendering a decision, the HPHA will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the Notice.
The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

The validity of the evidence. The HPHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the HPHA will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, the HPHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The HPHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.


PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the HPHA’s HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the HPHA’s decisions related to the family’s circumstances are in accordance with the law, HUD regulations and HPHA policies.

The HPHA is not permitted to terminate a family’s assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures
Decisions Subject to Informal Hearing

Circumstances for which the HPHA must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family’s annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the HPHA utility allowance schedule
- A determination of the family unit size under the HPHA’s subsidy standards
- A determination that a participating family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the HPHA’s subsidy standards, or the HPHA determination to deny the family’s request for exception from the standards
- A determination to terminate assistance for a participant family because of the family’s actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under HPHA policy and HUD rules
- A determination to terminate a family’s Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family’s escrow account [24 CFR 984.303(i)]
- A determination to deny admission based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking.

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the HPHA
- General policy issues or class grievances
- Establishment of the HPHA schedule of utility allowances for families in the program
- A HPHA determination not to approve an extension or suspension of a voucher term
- A HPHA determination not to approve a unit or tenancy
- A HPHA determination that a unit selected by the applicant is not in compliance with the HQS
- A HPHA determination that the unit is not in accordance with HQS because of family size
• A determination by the HPHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

HPHA Policy

The HPHA will only offer participants the opportunity for an informal hearing when required to by the regulations.

Informal Hearing Procedures

Notice to the Family [24 CFR 982.555(c)]

When the HPHA makes a decision that is subject to informal hearing procedures, the HPHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family’s annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the HPHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family’s assistance, or the denial of a family’s request for an exception to the HPHA’s subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

HPHA Policy

In cases where the HPHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

The proposed action or decision of the HPHA.

A brief statement of the reasons for the decision including the regulatory reference.

The date the proposed action will take place.

A statement of the family’s right to an explanation of the basis for the HPHA’s decision.

A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.

A deadline for the family to request the informal hearing.
To whom the hearing request should be addressed.

A copy of the HPHA’s hearing procedures.

**Scheduling an Informal Hearing [24 CFR 982.555(d)]**

When an informal hearing is required, the HPHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

**HPHA Policy**

A request for an informal hearing must be made in writing and delivered to the HPHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the HPHA’s decision or notice to terminate assistance.

The HPHA must schedule and send written notice of the informal hearing to the family within 10 business days of the family’s request.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the HPHA may request documentation of the “good cause” prior to rescheduling the hearing.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the HPHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The HPHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

**Pre-Hearing Right to Discovery [24 CFR 982.555(e)]**

Participants and the HPHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any HPHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the HPHA does not make the document available for examination on request of the family, the HPHA may not rely on the document at the hearing.

The HPHA hearing procedures may provide that the HPHA must be given the opportunity to examine at the HPHA offices before the hearing, any family documents that are directly
relevant to the hearing. The HPHA must be allowed to copy any such document at the HPHA’s expense. If the family does not make the document available for examination on request of the HPHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, documents include records and regulations.

**HPHA Policy**

The family will be allowed to copy any documents related to the hearing at the current allowable cost per page under the OPRA requirement. The family must request discovery of HPHA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

The HPHA must be given an opportunity to examine at the WHA offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, the HPHA will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

**Participant’s Right to Bring Counsel [24 CFR 982.555(e)(3)]**

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

**Informal Hearing Officer [24 CFR 982.555(e)(4)]**

Informal hearings will be conducted by a person or persons approved by the HPHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

**HPHA Policy**

The HPHA appoints hearing officers who may be HPHA management personnel, managers from other public or governmental agencies within the jurisdiction of the HPHA, experienced and qualified personnel from other PHAs, or professional mediators or arbitrators.

**Attendance at the Informal Hearing**

**HPHA Policy**

Hearings may be attended by a hearing officer and the following applicable persons:

An HPHA representative(s) and any witnesses for the HPHA
The participant and any witnesses for the participant
The participant’s counsel or other representative
Any other person approved by the HPHA as a reasonable accommodation for a person with a disability

Conduct at Hearings

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the HPHA’s hearing procedures [24 CFR 982.555(4)(ii)].

HPHA Policy

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

Evidence [24 CFR 982.555(e)(5)]

The HPHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

HPHA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

**Oral evidence**: the testimony of witnesses

**Documentary evidence**: a writing which is relevant to the case, for example, a letter written to the HPHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

**Demonstrative evidence**: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

**Real evidence**: A tangible item relating directly to the case.
Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer’s decision.

If either the HPHA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The HPHA may, but is not required to, provide a transcript of the hearing.

Hearing Officer’s Decision [24 CFR 982.555(e)(6)]

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

HPHA Policy

In rendering a decision, the hearing officer will consider the following matters:

HPHA Notice to the Family: The hearing officer will determine if the reasons for the HPHA’s decision are factually stated in the Notice.

Discovery: The hearing officer will determine if the HPHA and the family were given the opportunity to examine any relevant documents in accordance with HPHA policy.

HPHA Evidence to Support the PHA Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the HPHA’s conclusion.

Validity of Grounds for Termination of Assistance (when applicable): The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and HPHA policies. If the grounds for termination are not specified in the regulations or in compliance with HPHA policies, then the decision of the HPHA will be overturned.
The hearing officer will issue a written decision to the family and the HPHA no later than 10 business days after the hearing. The report will contain the following information:

**Hearing information:**

- Name of the participant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of the HPHA representative; and
- Name of family representative (if any).

**Background:** A brief, impartial statement of the reason for the hearing.

**Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

**Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the HPHA’s decision.

**Order:** The hearing report will include a statement of whether the HPHA’s decision is upheld or overturned. If it is overturned, the hearing officer will instruct the HPHA to change the decision in accordance with the hearing officer’s determination. In the case of termination of assistance, the hearing officer will instruct the HPHA to restore the participant’s program status.

**Procedures for Rehearing or Further Hearing**

**HPHA Policy**

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family
misses an appointment or deadline ordered by the hearing officer, the action of the HPHA will take effect and another hearing will not be granted.

In addition, within 10 business days after the date the hearing officer’s report is mailed to the HPHA and the participant, the HPHA or the participant may request a rehearing or a further hearing. Such request must be made in writing and postmarked or hand-delivered to the hearing officer and to the other party within the 10 business day period. The request must demonstrate cause, supported by specific references to the hearing officer’s report, why the request should be granted.

A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of the HPHA to grant or deny the request for further hearing or rehearing. A further hearing may be limited to written submissions by the parties, in the manner specified by the hearing officer.

**HPHA Notice of Final Decision [24 CFR 982.555(f)]**

The HPHA is not bound by the decision of the hearing officer for matters in which the HPHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the HPHA determines it is not bound by the hearing officer’s decision in accordance with HUD regulations, the WHA must promptly notify the family of the determination and the reason for the determination.

**HPHA Policy**

The HPHA will mail a “Notice of Final Decision” including the hearing officer’s report, to the participant and their representative. This Notice will be sent by first-class mail, postage pre-paid with an affidavit of mailing enclosed. The participant will be mailed the original “Notice of Final Decision” and a copy of the proof of mailing. A copy of the “Notice of Final Decision” along with the original proof mailing will be maintained in the HPHA’s file.

**16-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.
Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the HPHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the HPHA informal hearing process, does not preclude the family from exercising the right, that may be available, to seek redress directly through judicial procedures.

**Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]**

As discussed in Chapters 3 and 11, the notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.5 14 and 5.5 18].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the HPHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

**USCIS Appeal Process [24 CFR 5.514(e)]**

When the HPHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the HPHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the HPHA with a copy of the written request for appeal and the proof of mailing.
**HPHA Policy**

The HPHA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide the HPHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the HPHA, of its decision. When the USCIS notifies the HPHA of the decision, the HPHA must notify the family of its right to request an informal hearing.

**HPHA Policy**

The HPHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family’s immigration status.

**Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the HPHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the HPHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

**Informal Hearing Officer**

The HPHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

**Evidence**

The family must be provided the opportunity to examine and copy at the family’s expense, at a reasonable time in advance of the hearing, any documents in the possession of the HPHA.
pertaining to the family’s eligibility status, or in the possession of the USCIS (as permitted by
USCIS requirements), including any records and regulations that may be relevant to the hearing.

**HPHA Policy**

The family will be allowed to copy any documents related to the hearing at a cost of $.25
per page. The family must request discovery of HPHA documents no later than 12:00 p.m.
on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of
eligible status. Evidence may be considered without regard to admissibility under the rules of
evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the
HPHA, and to confront and cross-examine all witnesses on whose testimony or information
the HPHA relies.

**Representation and Interpretive Services**

The family is entitled to be represented by an attorney or other designee, at the family’s
expense, and to have such person make statements on the family’s behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the
family, or the HPHA, as may be agreed upon by the two parties.

**Recording of the Hearing**

The family is entitled to have the hearing recorded by audiotape. The HPHA may, but is not
required to provide a transcript of the hearing.

**HPHA Policy**

The HPHA will not provide a transcript of an audio taped hearing.

**Hearing Decision**

The HPHA must provide the family with a written final decision, based solely on the facts
presented at the hearing, within 14 calendar days of the date of the informal hearing. The
decision must state the basis for the decision.

**Informal Hearing Procedures for Residents [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the
family may request that the HPHA provide a hearing. The request for a hearing must be made
either within 30 days of receipt of the HPHA notice of termination, or within 30 days of receipt
of the USCIS appeal decision.
For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

**Retention of Documents [24 CFR 5.514(h)]**

The HPHA must retain for a minimum of 5 years the following documents that may have been submitted to the HPHA by the family, or provided to the HPHA as part of the USCIS appeal or the HPHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

**PART IV: OWNER OR FAMILY DEBTS TO THE HPHA 16-IV.A.**

**OVERVIEW**

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA [24 CFR 982.54]. This part describes the HPHA’s policies for recovery of monies owed to the HPHA by families or owners.

**HPHA Policy**

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the HPHA holds the owner or participant liable to return any overpayments to the HPHA.

The HPHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When an owner or participant refuses to repay monies owed to the HPHA, the HPHA will utilize other available collection alternatives including, but not limited to, the following:
16-IV.B. REPAYMENT POLICY

Owner

Debts to the HPHA

HPHA Policy

Any amount due to the HPHA by an owner must be repaid by the owner within 30 days of the HPHA determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the HPHA will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the HPHA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by the HPHA.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the HPHA will ban the owner from future participation in the program and pursue other modes of collection.

Family Debts to the HPHA

HPHA Policy

Any amount owed to the HPHA by an HCV family must be repaid by the family. If the family is unable to repay the debt within 30 days, the HPHA may offer to enter into a repayment agreement in accordance with the policies below. A repayment agreement will generally not be offered to a family owing money due to the delayed start of unemployment benefits. The amount owed is expected to be paid within 30 days.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the HPHA will terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.
Repayment Agreement [24 CFR 792.103]

The term repayment agreement refers to a formal written document signed by a tenant or owner and provided to the HPHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

General Repayment Agreement Guidelines for Families

Down Payment Requirement

HPHA Policy

Before executing a repayment agreement with a family, the HPHA will generally require a down payment of 50 percent of the total amount owed. If the family can provide evidence satisfactory to the HPHA that a down payment of 50 percent would impose an undue hardship, the HPHA may, in its sole discretion, require a lesser percentage or waive the requirement.

Payment Thresholds

Notice PIH 2010-19 recommends that the total amount that a family must pay each month—the family’s monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family’s monthly adjusted income. However, a family may already be paying 40 percent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2010-19 acknowledges that PHAs have the discretion to establish “thresholds and policies” for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

HPHA Policy

The HPHA has established the following thresholds for repayment of debts:

Amounts between $3,000 and the federal or state threshold for criminal prosecution must be repaid within 36 months.

Amounts between $2,000 and $2,999 must be repaid within 30 months.

Amounts between $1,000 and $1,999 must be repaid within 24 months.

Amounts under $1,000 must be repaid within 12 months.

If a family can provide evidence satisfactory to the HPHA that the threshold applicable to the family’s debt would impose an undue hardship, the HPHA may, in its sole discretion, determine
that a lower monthly payment amount is reasonable. In making its determination, the HPHA will consider all relevant information, including the following:

- The amount owed by the family to the HPHA
- The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family’s control
- The family’s current and potential income and expenses
- The family’s current family share, as calculated under 24 CFR 982.5 15
- The family’s history of meeting its financial responsibilities

**Execution of the Agreement**

**HPHA Policy**

Any repayment agreement between the HPHA and a family must be signed and dated by the HPHA and by the head of household and spouse/co-head (if applicable).

**Due Dates**

**HPHA Policy**

All payments are due by the close of business on the 15\textsuperscript{th} day of the month. If the 15\textsuperscript{th} does not fall on a business day, the due date is the close of business on the first business day after the 15\textsuperscript{th}.

**Late or Missed Payments**

**HPHA Policy**

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the HPHA, the HPHA will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the HPHA will terminate assistance in accordance with the policies in Chapter 12.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the HPHA will terminate assistance in accordance with the policies in Chapter 12.
No Offer of Repayment Agreement

HPA Policy

The HPHA will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family, if the family has had a repayment agreement within the past twelve (12) months, or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

Repayment Agreements Involving Improper Payments

Notice PIH 2010-19 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family’s obligation to provide true and complete information at every reexamination and the grounds on which the HPHA may terminate assistance because of a family’s action or failure to act
- A statement clarifying that each month the family not only must pay to the HPHA the monthly payment amount specified in the agreement, but must also pay to the owner the family’s monthly share of the rent to owner
- A statement that the terms of the repayment agreement may be renegotiated if the family’s income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance

PART V: MANAGEMENT ASSESSMENT (SEMAP) 16-V.A.

OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].

HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by PHA board resolution and signed by the PHA executive director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as “troubled” [24 CFR 985.105].

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.”

A PHA’s SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA’s SEMAP certification, HUD will rate the PHA’s performance under each SEMAP indicator in accordance with program requirements.

HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the PHA’s certification on the indicator due to the PHA’s failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].
16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A PHA that expends less than $300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

<table>
<thead>
<tr>
<th>SEMAP Indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indicator 1: Selection from the waiting list</td>
</tr>
<tr>
<td>Maximum Score: 15</td>
</tr>
<tr>
<td>• This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants for admission from the waiting list.</td>
</tr>
<tr>
<td>• Points are based on the percent of families that are selected from the waiting list in accordance with the PHA’s written policies, according to the PHA’s quality control sample.</td>
</tr>
<tr>
<td>Indicator 2: Rent reasonableness</td>
</tr>
<tr>
<td>Maximum Score: 20</td>
</tr>
<tr>
<td>• This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units.</td>
</tr>
<tr>
<td>• Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA’s quality control sample.</td>
</tr>
<tr>
<td>Indicator 3: Determination of adjusted income</td>
</tr>
<tr>
<td>Maximum Score: 20</td>
</tr>
<tr>
<td>• This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.</td>
</tr>
<tr>
<td>• Points are based on the percent of files that are calculated and verified correctly, according to the PHA’s quality control sample.</td>
</tr>
<tr>
<td>Indicator 4: Utility allowance schedule</td>
</tr>
<tr>
<td>----------------------------------------</td>
</tr>
<tr>
<td><strong>Maximum Score:</strong> 5</td>
</tr>
<tr>
<td>• This indicator shows whether the PHA maintains an up-to-date utility allowance schedule.</td>
</tr>
<tr>
<td>• Points are based on whether the PHA has reviewed the utility allowance schedule and</td>
</tr>
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<table>
<thead>
<tr>
<th>Indicator 5: HQS quality control inspections</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum Score:</strong> 5</td>
<td></td>
</tr>
<tr>
<td>• This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.</td>
<td></td>
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<tr>
<td>Points are based on whether the required quality control reinspections were completed, according to the PHA’s certification.</td>
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<table>
<thead>
<tr>
<th>Indicator 6: HQS enforcement</th>
<th></th>
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</thead>
<tbody>
<tr>
<td><strong>Maximum Score:</strong> 10</td>
<td></td>
</tr>
<tr>
<td>• This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension.</td>
<td></td>
</tr>
<tr>
<td>• Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA’s certification.</td>
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<table>
<thead>
<tr>
<th>Indicator 7: Expanding housing opportunities</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum Points:</strong> 5</td>
<td></td>
</tr>
<tr>
<td>• Only applies to PHAs with jurisdiction in metropolitan FMR areas.</td>
<td></td>
</tr>
<tr>
<td>• This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA’s jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.</td>
<td></td>
</tr>
<tr>
<td>• Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA’s certification.</td>
<td></td>
</tr>
</tbody>
</table>
### Indicator 8: FMR limit and payment standards

**Maximum Points:** 5 points

- This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA’s jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the PHA has appropriately adopted a payment standard schedule(s) according to the PHA’s certification.

### Indicator 9: Annual reexaminations

**Maximum Points:** 10

- This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.

### Indicator 10: Correct tenant rent calculations

**Maximum Points:** 5

- This indicator shows whether the PHA correctly calculates the family’s share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

### Indicator 11: Pre-contract HQS inspections

**Maximum Points:** 5

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.

### Indicator 12: Annual HQS inspections

**Maximum Points:** 10

- This indicator shows whether the PHA inspects each unit under contract at least annually.
- Points are based on the percent of annual HQS inspections of units under contract.
<table>
<thead>
<tr>
<th>Indicator 13: Lease-up</th>
<th>Maximum Points: 20 points</th>
</tr>
</thead>
<tbody>
<tr>
<td>This indicator shows whether the PHA enters HAP contracts for the number of units or funding reserved under ACC for at least one year.</td>
<td></td>
</tr>
<tr>
<td>Points are based on the percent of units leased during the last completed PHA fiscal year, or the percent of allocated budget authority that has been expended by the PHA, according to data from the PHA’s last year-end operating statement that is recorded in HUD’s accounting system.</td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances</th>
<th>Maximum Points: 10</th>
</tr>
</thead>
<tbody>
<tr>
<td>Only applies to PHAs with mandatory FSS programs.</td>
<td></td>
</tr>
<tr>
<td>This indicator shows whether the PHA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.</td>
<td></td>
</tr>
<tr>
<td>Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Success Rate of Voucher Holders</th>
<th>Maximum Points: 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn’t effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.</td>
<td></td>
</tr>
<tr>
<td>This indicator shows whether voucher holders were successful in leasing units with voucher assistance.</td>
<td></td>
</tr>
<tr>
<td>Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Deconcentration Bonus Indicator</th>
<th>Maximum Points: 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile.</td>
<td></td>
</tr>
<tr>
<td>Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.</td>
<td></td>
</tr>
<tr>
<td>Points are based on whether the data that is submitted meets the requirements for bonus points.</td>
<td></td>
</tr>
</tbody>
</table>
PART VI: RECORD KEEPING

16-VI.A. OVERVIEW

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual’s privacy rights.

16-VI.B. RECORD RETENTION [24 CFR 982.158]

During the term of each assisted lease, and for at least three years thereafter, the PHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the HPHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting HPHA budget and financial statements for the program;
- Records to document the basis for HPHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

If an informal hearing to establish a family’s citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.
16-VI.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

HPHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized HPHA staff.

HPHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under HPHA conditions HUD or the HPHA may release the information collected.

Upfront Income Verification (UIV) Records

PHAs that access UIV data through HUD’s Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data.

HPHA Policy

Prior to utilizing HUD’s EIV system, the HPHA will adopt and implement EIV security procedures required by HUD.
Enterprise Income Verification (EIV) Records Retention

HPHA Policy

The HPHA must destroy wage, unemployment, employment and new hire information two years from print date. This destruction requirement does not apply to SS/SSI benefit information (see Chapter 18).

Criminal Records

The PHA may only disclose the criminal conviction records which the HPHA receives from a law enforcement agency to officers or employees of the HPHA, or to authorized representatives of the HPHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The HPHA must establish and implement a system of records management that ensures that any criminal record received by the HPHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HPHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the HPHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HPHA action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

Medical/Disability Records

The PHA is not permitted to inquire about the nature or extent of a person’s disability. The HPHA may not inquire about a person’s diagnosis or details of treatment for a disability or medical condition. If the HPHA receives a verification document that provides such information, the HPHA should not place this information in the tenant file. The HPHA should destroy the document.
PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

16-VII.A. OVERVIEW

The PHA has certain responsibilities relative to children with elevated blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the HPHA is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]

The PHA must report the name and address of a child identified as having an elevated blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

HPHA Policy

The HPHA will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level.

16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, the PHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified elevated blood lead level.

If the PHA obtains names and addresses of elevated blood lead level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the PHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

HPHA Policy

The health department will notify us when they have a child with elevated blood lead levels (EBLL) so the Authority can check if the name/addresses are federally assisted through its programs.
PART VIII: DETERMINATION OF INSUFFICIENT FUNDING 16-VIII.A.

OVERVIEW

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.3 14(e)(1) and 982.454]. Insufficient funding may also impact the HPHA’s ability to issue vouchers to families on the waiting list. This part discusses the methodology the HPHA will use to determine whether or not the HPHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

16-VIII.B. METHODOLOGY

**HPHA Policy**

The HPHA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the HPHA’s annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the HPHA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month’s average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if the HPHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the HPHA will be considered to have insufficient funding.

PART IX: NOTIFICATION REGARDING APPLICABLE PROVISIONS OF THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013 (VAWA)

The Violence against Women Reauthorization Act of 2013 (VAWA) requires PHAs to inform assisted tenants of their rights under this law, including their right to confidentiality and the limits thereof. Since VAWA provides protections for applicants as well as tenants, PHAs may elect to provide the same information to applicants. VAWA also requires PHAs to inform
owners and managers of their obligations under this law [24 CFR 5.2007(3)] (PIH Notice 2017-08)

This part describes the steps that the HPHA will take to ensure that all actual and potential beneficiaries of its housing choice voucher program are notified about their rights and that owners and managers are notified of their obligations under VAWA.

**HPHA Policy**

The HPHA will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

- A summary of the rights and protections provided by VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, sexual assault, dating violence, or stalking (see sample notices in Exhibits 16-1 and 16-2)
- The definitions of *domestic violence*, *dating violence*, *sexual assault* and *stalking* provided in VAWA (included in Exhibits 16-1 and 16-2)
- An explanation of the documentation that the HPHA may require from an individual who claims the protections provided by VAWA (included in Exhibits 16-1 and 16-2)
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, or Stalking
- A statement of the HPHA’s obligation to keep confidential any information that it receives from a victim unless (a) the HPHA has the victim’s written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibits 16-1 and 16-2)
- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)
- Contact information for local victim advocacy groups or service providers

**16-IX.A. NOTIFICATION TO PARTICIPANTS [24 CFR 5.2007(3)(i)]**

VAWA requires PHAs to notify HCV program participants of their rights under this law, including their right to confidentiality and the limits thereof.
**HPHA Policy**

The HPHA will provide all participants with notification of their protections and rights under VAWA at the time of admission and at annual reexamination.

The notice will explain the protections afforded under the law, inform the participant of HPHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The HPHA will also include in all assistance termination notices a statement explaining assistance termination protection provided by VAWA (see Section 12-II.E).

**16-IX.B. NOTIFICATION TO APPLICANTS**

**HPHA Policy**

The HPHA will provide all applicants with notification of their protections and rights under VAWA at the time they request an application for housing assistance.

The notice will explain the protections afforded under the law, inform each applicant of HPHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The HPHA will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.G).

**16-IX.C. NOTIFICATION TO OWNERS AND MANAGERS [24 CFR 5.2007(3)(ii)]**

VAWA requires PHAs to notify owners and managers of their rights and responsibilities under this law.

**HPHA Policy**

Inform property owners and managers of their screening and termination responsibilities related to VAWA. The HPHA may utilize any or all of the following means to notify owners of their VAWA responsibilities:

- As appropriate in day to day interactions with owners and managers.
- Inserts in HAP payments, 1099s, owner workshops, classes, orientations, and/or newsletters.
- Signs in the HPHA lobby and/or mass mailings which include model VAWA certification forms
This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2006 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence against Women Act, or “VAWA.” This notice explains your rights under VAWA.

**Protections for Victims**

If you are eligible for a Section 8 voucher, the housing authority cannot deny you rental assistance solely because you are a victim of domestic violence, dating violence, or stalking.

If you are the victim of domestic violence, dating violence, or stalking, you cannot be terminated from the Section 8 program or evicted based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, or stalking that are caused by a member of your household or a guest can’t be the reason for evicting you or terminating your rental assistance if you were the victim of the abuse.

**Reasons You Can Be Evicted**

You can be evicted and your rental assistance can be terminated if the housing authority or your landlord can show there is an **actual and imminent** (immediate) threat to other tenants or employees at the property if you remain in your housing. Also, you can be evicted and your rental assistance can be terminated for serious or repeated lease violations that are not related to the domestic violence, dating violence, or stalking committed against you. The housing authority and your landlord cannot hold you to a more demanding set of rules than it applies to tenants who are not victims.

**Removing the Abuser from the Household**

Your landlord may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the assisted unit. Also, the housing authority can terminate the abuser’s Section 8 rental assistance while allowing you to continue to receive assistance. If the landlord or housing authority chooses to remove the abuser, it may not take away the remaining tenants’ rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, your landlord must follow federal, state, and local eviction procedures.
Moving to Protect Your Safety

The housing authority may permit you to move and still keep your rental assistance, even if your current lease has not yet expired. The housing authority may require that you be current on your rent or other obligations in the housing choice voucher program. The housing authority may ask you to provide proof that you are moving because of incidences of abuse.

Proving that You Are a Victim of Domestic Violence, Dating Violence, or Stalking

The housing authority and your landlord can ask you to prove or “certify” that you are a victim of domestic violence, dating violence, or stalking. The housing authority and your landlord must give you at least 14 business days (i.e. Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority and your landlord are free to extend the deadline. There are three ways you can prove that you are a victim:

- Complete the certification form given to you by the housing authority or your landlord. The form will ask for your name, the name of your abuser, the abuser’s relationship to you, the date, time, and location of the incident of violence, and a description of the violence.
- Provide a statement from a victim service provider, attorney, or medical professional who has helped you address incidents of domestic violence, dating violence, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing “under penalty of perjury.”
- Provide a police or court record, such as a protective order.

If you fail to provide one of these documents within the required time, the landlord may evict you, and the housing authority may terminate your rental assistance.

Confidentiality

The housing authority and your landlord must keep confidential any information you provide about the violence against you, unless:

- You give written permission to the housing authority or your landlord to release the information.
- Your landlord needs to use the information in an eviction proceeding, such as to evict your abuser.
- A law requires the housing authority or your landlord to release the information.

If release of the information would put your safety at risk, you should inform the housing authority and your landlord.
**VAWA and Other Laws**

VAWA does not limit the housing authority’s or your landlord’s duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, or stalking.

**For Additional Information**

For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).

**Definitions**

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines *domestic violence* to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- Any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction

VAWA defines *dating violence* as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines *stalking* as (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person AND (B) in the course of, or as a result
of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person, (ii) a member of the immediate family of that person, or (iii) the spouse or intimate partner of that person.

EXHIBIT 16-2: SAMPLE NOTICE TO HOUSING CHOICE VOUCHER OWNERS AND MANAGERS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2006 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence against Women Act, or “VAWA.” This notice explains your obligations under VAWA.

**Protections for Victims**

You cannot refuse to rent to an applicant solely because he or she is a victim of domestic violence, dating violence, or stalking.

You cannot evict a tenant who is the victim of domestic violence, dating violence, or stalking based on acts or threats of violence committed against the victim. Also, criminal acts directly related to the domestic violence, dating violence, or stalking that are caused by a household member or guest cannot be cause for evicting the victim of the abuse.

**Permissible Evictions**

You can evict a victim of domestic violence, dating violence, or stalking if you can demonstrate that there is an *actual or imminent* (immediate) threat to other tenants or employees at the property if the victim is not evicted. Also, you may evict a victim for serious or repeated lease violations that are not related to the domestic violence, dating violence, or stalking. You cannot hold a victim of domestic violence, dating violence, or stalking to a more demanding standard that tenants who are not victims.

**Removing the Abuser from the Household**

You may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the unit. If you choose to remove the abuser, you may not take away the remaining tenants’ rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, you must follow federal, state, and local eviction procedures.
Certification of Domestic Violence, Dating Violence, or Stalking

If a tenant asserts VAWA’s protections, you can ask the tenant to certify that he or she is a victim of domestic violence, dating violence, or stalking. You are not required to demand official documentation and may rely upon the victim’s statement alone. If you choose to request certification, you must do so in writing and give the tenant at least 14 business days to provide documentation. You are free to extend this deadline. A tenant can certify that he or she is a victim by providing any one of the following three documents:

- By completing a HUD-approved certification form. The most recent form is HUD-50066. This form is available at the housing authority, or online at http://www.hud.gov/offices/adm/hudclips/.
- By providing a statement from a victim service provider, attorney, or medical professional who has helped the victim address incidents of domestic violence, dating violence, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both the victim and the professional must sign the statement under penalty of perjury.
- By providing a police or court record, such as a protective order.

If the tenant fails to provide one of these documents within 14 business days, you may evict the tenant if authorized by otherwise applicable law and lease provisions.

Confidentiality

You must keep confidential any information a tenant provides to certify that he or she is a victim of domestic violence, dating violence, or stalking. You cannot enter the information into a shared database or reveal it to outside entities unless:

- The tenant provides written permission releasing the information.
- The information is required for use in an eviction proceeding, such as to evict the abuser.
- Release of the information is otherwise required by law.

The victim should inform you if the release of the information would put his or her safety at risk.

VAWA and Other Laws

VAWA does not limit your obligation to honor court orders regarding access to or control of the property. This includes orders issued to protect the victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, or stalking.
Additional Information

- HUD Notice PIH 2006-42 contains detailed information regarding VAWA’s certification requirements. The notice is available at http://www.hud.gov/offices/adm/hudclips/.

Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines **domestic violence** to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- Any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction

VAWA defines **dating violence** as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines **stalking** as (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person AND (B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person, (ii) a member of the immediate family of that person, or (iii) the spouse or intimate partner of that person.
Chapter 17

PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and HPHA policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the HPHA will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the HPHA’s discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VII: Occupancy. This part discusses occupancy requirements related to the lease, and describes under HPHA conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be re-determined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.
Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS 17-I.A.

OVERVIEW [24 CFR 983.5]

The project-based voucher (PBV) program allows PHAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its voucher program budget authority and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. The 20 percent unit limitation calculation and allowing for additional project-basing of vouchers by raising the limit an additional 10 percent for homeless families, families with veterans, supportive housing for persons with disabilities or elderly persons or in areas where vouchers are difficult to use. PHAs may only operate a PBV program if doing so is consistent with the PHA’s Annual Plan, and the goal of de-concentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

Under RAD HUD has the authority to waive statutory and regulatory provisions governing the PBV program, or to establish alternative requirements for the effective conversion of assistance. [PIH 2012-32(HA) H 2017-3, Rev-3 issued 1/12/17]

HPHA Policy

The HPHA will operate a project-based voucher program using up to 20 percent of its authorized units for project-based assistance.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, the HPHA is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, the HPHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6].

Project Selection – Covered projects do not count against the percentage limitation applicable to the PBV program. HUD is waiving selection. (24CFR 983.6)
**Cap on the Number of PBV Units in each Project** – There is no cap on the number of units that may receive PBV assistance in each project. HUD is waiving 24 CFR 983.56, 983.257(b) and 983.262(a) and (d).

PHAs can project base HUD-Vash and FUP vouchers in accordance with statutory and regulatory requirements of the PBV program without additional requirements for approval by HUD.

**17-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]**

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the HPHA policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

**HPHA Policy**

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the HPHA policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

**17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]**

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. PHAs may not use voucher program funds to cover relocation costs, except that PHAs may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the HPHA to ensure the owner complies with these requirements.

**17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]**
The PHA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the PHA must comply with the PHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

PART II: PBV OWNER PROPOSALS

17-II.A. OVERVIEW

The PHA must describe the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the PHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR 983.56, FR Notice 11/24/08], and meets the site selection standards [24 CFR 983.57].

17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51]

The PHA must select PBV proposals in accordance with the selection procedures in the PHA administrative plan. The PHA must select PBV proposals by either of the following two methods.

- **PHA request for PBV Proposals.** The PHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the PHA request. The PHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.

- **The PHA may select a proposal that was previously selected based on a competition.** This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program’s competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

Under RAD, HUD is waiving 24 CFR 983.51 with respect to site selection standards. HUD is waiving provisions having to do with deconcentration of poverty and expanding housing and economic opportunity for the existing site. 24 CFR 983.57(b)(1) and (c)(2)
**Solicitation and Selection of PBV Proposals [24 CFR 983.51(b) and (c)]**

PHA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the PHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the PHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

**HPHA Policy**

**HPHA Request for Proposals for Rehabilitated and Newly Constructed Units**

The HPHA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the following newspapers and trade journals.

The HPHA will advertise RFPs in the newspapers approved by the BOC.

In addition, the HPHA will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

The HPHA will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the HPHA estimates that it will be able to assist under the funding the HPHA is making available. Proposals will be due in the HPHA office by close of business 30 calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to the HPHA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

The HPHA will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP;
- Extent to which the project furthers the HPHA goal of deconcentrating poverty and expanding housing and economic opportunities;
- If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and
Projects with less than 25 percent of the units assisted will be rated higher than projects with 25 percent of the units assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, the HPHA will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

**HPHA Requests for Proposals for Existing Housing Units**

The HPHA will advertise its request for proposals (RFP) for existing housing in the following newspapers and trade journals.

The HPHA will advertise RFPs in the newspaper(s) approved by the BOC.

In addition, the HPHA will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic web site.

The HPHA will periodically publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the HPHA estimates that it will be able to assist under the funding the HPHA is making available. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

- Experience as an owner in the tenant-based voucher program and owner compliance with the owner’s obligations under the tenant-based program;
- Extent to which the project furthers the HPHA goal of de-concentrating poverty and expanding housing and economic opportunities;
- If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and
- Extent to which units are occupied by families that are eligible to participate in the PBV program.

**HPHA Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program**

The HPHA will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.
The HPHA may periodically advertise that it is accepting proposals, in the following newspapers and trade journals:

The HPHA will advertise RFPs in the newspaper(s) approved by the BOC.

In addition to, or in place of advertising, the WHA may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed on a first-come first-served basis. The HPHA will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers the HPHA goal of de-concentrating poverty and expanding housing and economic opportunities; and
- Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.

**PHA-owned Units [24 CFR 983.51(e) and 983.59]**

A PHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the PHA-owned units were appropriately selected based on the selection procedures specified in the PHA administrative plan. If the PHA selects a proposal for housing that is owned or controlled by the PHA, the PHA must identify the entity that will review the PHA proposal selection process and perform specific functions with respect to rent determinations and inspections.

In the case of PHA-owned units, the initial contract rent must be approved by an independent entity based on an appraisal by a licensed, state-certified appraiser. In addition, housing quality standards inspections must be conducted by an independent entity.

The independent entity that performs these program services may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

HOTMA allows the PHA to attach assistance to structures in which the PHA has an ownership interest without following competitive process up to $75K.
**HPA Policy**

The HPHA may submit a proposal for project-based housing that is owned or controlled by the HPHA. If the proposal for HPHA-owned housing is selected, the HPHA will use HUD or a HUD-approved entity, to review the HPHA selection. The HPHA will use an independent entity approved by HUD to establish the initial contract rent based on an appraisal by a licensed, state certified appraiser. HQS inspections of the units may not be performed by the same entity.

The HPHA may only compensate the independent entity and appraiser from HPHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The HPHA may not use other program receipts to compensate the independent entity and appraiser for their services. The HPHA, independent entity, and appraiser may not charge the family any fee for the appraisal or the services provided by the independent entity.

For PBV projects where the PHA has more than 50% ownership interest, the PHA must inform HUD within 30 days as to the entity that will perform the activities (HQS, Rent Reasonableness) in compliance with 24 CFR 983.59.

**PHA Notice of Owner Selection [24 CFR 983.51(d)]**

The PHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

**HPA Policy**

The HPHA will promptly notify the selected owner in writing of the owner’s selection for the PBV program. The HPHA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the HPHA may publish its notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals the HPHA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. The HPHA will also post the notice of owner selection on its electronic web site.

The HPHA will make available to any interested party the documents that identify the HPHA’s basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of
owner selection. The HPHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The HPHA will make these documents available for review at the HPHA during normal business hours. The cost for reproduction of allowable documents will be the current cost allowable under OPRA.

17-II.C. HOUSING TYPE [24 CFR 983.52]

The PHA may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of PHA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

The PHA must decide HPHA housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The PHA choice of housing type must be reflected in its solicitation for proposals.

17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS Ineligible

Housing Types [24 CFR 983.53]

The PHA may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; and transitional housing. In addition, the PHA may not attach or pay PBV assistance for a unit occupied by an owner and the PHA may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program.

Subsidized Housing [24 CFR 983.54]

The HPHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
• A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
• A unit subsidized with Section 236 rental assistance payments (except that the HPHA may attach assistance to a unit subsidized with Section 236 interest reduction payments);
• A Section 202 project for non-elderly with disabilities;
• Section 811 project-based supportive housing for persons with disabilities;
• Section 202 supportive housing for the elderly;
• A Section 101 rent supplement project;
• A unit subsidized with any form of tenant-based rental assistance;
• A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the HPHA in accordance with HUD requirements.

17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, FR Notice 11/24/08] and FR Notice 7/9/10]

The PHA may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

The PHA must submit the necessary documentation to HUD for a subsidy layering review. Except in cases of HAP contracts for existing structures, or if such reviews have been conducted by the applicable state and local agencies (defined by HUD as qualified housing credit agencies, or HCAs), the PHA may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD, or an independent entity approved by HUD, has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements. However, in order to satisfy applicable requirements, HCAs must conduct subsidy layering reviews in compliance with the guidelines set forth in the Federal Register notice published July 9, 2010.

The HAP contract must contain the owner’s certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.
17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

25 Percent per Project Cap [24 CFR 983.56(a), FR Notice 11/24/08]

In general, the PHA may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than 25 percent of the number of dwelling units (assisted or unassisted) in the project.

Exceptions to 25 Percent per Project Cap [24 CFR 983.56(b), FR Notice 11/24/08]

Exceptions are allowed and PBV units are not counted against the 25 percent per project cap if:

- The units are in a single-family building (one to four units);
- The units are excepted units in a multifamily building because they are specifically made available for elderly or disabled families or families receiving supportive services (also known as qualifying families).

The PHA must include in the PHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. It is not necessary that the services be provided at or by the project, if they are approved services. To qualify, a family must have at least one member receiving at least one qualifying supportive service. The PHA may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered.

If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, FSS supportive services or any other supportive services as defined in the HPHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

The PHA must monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. The PHA administrative plan must state the form and frequency of such monitoring.

HPHA Policy

The HPHA will not provide PBV assistance for excepted units.

Promoting Partially-Assisted Buildings [24 CFR 983.56(c)]
The PHA may establish local requirements designed to promote PBV assistance in partially assisted buildings. A *partially assisted building* is a building in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

The PHA may establish a per-building cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily building containing excepted units or in a single-family building. The PHA may also determine not to provide PBV assistance for excepted units, or the PHA may establish a per-building cap of less than 25 percent.

**HPHA Policy:**

The HPHA will not provide assistance for excepted units. Beyond that, the HPHA will not impose any further cap on the number of PBV units assisted per building.

**17-II.G. SITE SELECTION STANDARDS**

**Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]**

The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the PHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR 903 and the PHA administrative plan.

In addition, prior to selecting a proposal, the PHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

**HPHA Policy**

It is the HPHA goal to select sites for PBV housing that provide for de-concentrating poverty and expanding housing and economic opportunities. In complying with this goal the HPHA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, the HPHA will grant exceptions to the 20 percent standard where the HPHA determines that the PBV assistance will complement other local redevelopment activities designed to de-concentrate poverty and expand housing and economic opportunities in Census tracts with poverty concentrations greater than 20 percent, such as sites in:
A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;

A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;

A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;

A census tract where there has been an overall decline in the poverty rate within the past five years; or

A census tract where there are meaningful opportunities for educational and economic advancement.

**Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]**

The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

**New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]**

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:
• The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
• The site must have adequate utilities and streets available to service the site;
• The site must not be located in an area of minority concentration unless the HPHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
• The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
• The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
• The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
• The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
• Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

17-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

The PHA activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The responsible entity is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The PHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the PHA, the owner, and its contractors may not acquire, rehabilitate, convert,
lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

The PHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The PHA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

**PART III: DWELLING UNITS**

**17-III.A. OVERVIEW**

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

**17-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]**

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

**Lead-based Paint [24 CFR 983.101(c)]**


**Lead-based Paint (PBV)**

For project based vouchers, when a child under 6 is identified with an EBLL:

The owner is responsible for:

- **Initial notification of a confirmed case to HUD**: Notifying the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes of the case – that is, the child’s address – within 5 business days. The PHA may wish to collaborate with the owner on
this notification process, such as by agreeing with the owner to be notified of the case by the owner and to forward the notification to the two HUD offices.

- **Initial notification of a confirmed case to public health department, when necessary:** When the owner is notified of the case by any medical health care professional other than the public health department, the owner shall notify the public health department of the name and address of the child within 5 business days. The PHA may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to inform the public health department.

- **Verification of the case, when necessary:** When the owner receives information from a person who is not a medical health care provider that a case may have occurred, the owner shall immediately convey the information to the public health department, asking that department to verify the information to determine whether the child has an EBLL. The PHA may wish to collaborate with the owner on this verification process, such as by agreeing with the owner to receive the information, convey the information to the public health department and ask for that department’s verification, and convey the result of the verification to the owner for further action if the case is confirmed or closing out the action if not.

- **Environmental Investigation:** Within 15 calendar days, conducting an environmental investigation of the child's unit and the common areas servicing that unit in accordance with Chapter 16 of the HUD Guidelines, as described in section 6 below. The PHA may wish to collaborate with the owner on this evaluation process, such as by agreeing with the owner to conduct the environmental investigation. If lead-based paint hazards are found in the child’s unit (the index unit) in a multiunit property, see section 9 below regarding risk assessments to be conducted within 30 or 60 calendar days in other covered units with a child under age 6 and the common areas servicing those units depending on the number of units.

- **Control:** The owner must control (and clear) any lead-based paint hazards identified by the environmental investigation within 30 calendar days using a certified lead-based paint abatement firm or certified lead renovation firm, including having the unit and common area pass a post-work dust clearance exam in accordance with section 35.1340. If lead-based paint hazards are found in the index unit in a multiunit property, and the risk assessments in other covered units with a child under age 6 and the common areas servicing those units identified lead-based paint hazards, control those lead-based paint hazards within 30 or 90 days depending on the number of units as described in section 9 below.

- **Notification to other residents:** As already required by the LSHR, in a multiunit property, the owner must notify all residents of lead evaluation and hazard control activities.

- **Follow-up notification:** The owner must notify the HUD Field Office of the results of the environmental investigation and then of the lead hazard control work within 10 business days of the deadline for each activity. The PHA may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to be notified of the results and then forward them to the Field Office.
• **Ongoing lead-based paint maintenance:** As already required by the LSHR in sections 35.715(c) and 35.720(b), after the work passes clearance, the owner must ensure that the unit and common areas are maintained as lead-safe for continued occupancy, which includes no deteriorated paint or failed lead hazard control methods. The requirements for ongoing LBP maintenance are in section 35.1355(a).

• **Reevaluation if PBV exceeds $5,000 per unit per year:** As already required by the LSHR in section 35.715(c), if the PBV is for more than $5,000 per unit per year, the owner must generally conduct periodic reevaluations every two years, using a certified lead risk assessor, and respond to them. The reevaluations shall be for: deteriorated paint surfaces unless they are known not to be lead-based paint, deteriorated or failed interim controls of lead-based paint hazards or encapsulation or enclosure treatments, dust-lead hazards, and soil-lead hazards in newly-bare soil. Exceptions from the reevaluation requirement are in section 35.1355(b)(1) and (4); the requirements for responding to the reevaluations are in section 35.1355(c).

The PHA is responsible for:

• **Monitoring of owner's compliance with LSHR:** Monitoring the PBV owner's compliance with the LSHR in accordance with the Housing Assistance Payments (HAP) contract between the PHA and the owner. This includes such actions as (see above) monitoring the owner's compliance in:
  - Notifying HUD of a confirmed case;
  - Notifying the public health department when any other medical health care professional notified the owner of the case;
  - Verifying the case when the owner receives information from a person who is not a medical health care provider that a case may have occurred;
  - Ensuring that any required lead hazard control (including passing clearance) is complete;
  - Ensuring that residents of other units in a multiunit property were notified of lead evaluation and hazard control activities; and
  - Ensuring that ongoing maintenance of paint is conducted.

The PHA may wish to collaborate with the owner on this monitoring, such as in ways described above.

• **Housing Assistance Payments Contract monitoring:** For the owner to allow the resident family to return to full occupancy of their housing unit, the owner must notify the family of the completion of work and passing of clearance. Because the PHA will be monitoring the owner's compliance with the LSHR in accordance with the HAP contract between the PHA and the owner, the PHA may wish to collaborate with the owner on this monitoring process, such as by agreeing to have the owner inform the PHA that the lead hazard control (including passing clearance) is complete, and providing documentation.

• **Lead Hazard Control:** Ensuring the owner completes and clears the control of lead-based paint hazards identified in the Environmental Investigation of the index unit and the
common area servicing that unit. If lead-based paint hazards are found in the index unit in a multiunit property, and the risk assessments in other covered units with a child under age 6 and the common areas servicing those units identified lead-based paint hazards, control those lead-based paint hazards as described in section 9 below.

- **Ongoing monitoring:** Units with identified lead-based paint hazards must have annual re-examinations for deteriorated paint and/or failed hazard control. This can be done in conjunction with periodic HQS inspections, but not at a frequency less than annually if there was deteriorated paint or known lead-based paint hazards identified in the child’s unit or common areas servicing that unit.

### 17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The PHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD’s regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

### 17-III.D. INSPECTING UNITS

**Pre-selection Inspection [24 CFR 983.103(a)]**

The PHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the PHA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the HPHA may not execute the HAP contract until the units fully comply with HQS.

**Pre-HAP Contract Inspections [24 CFR 983.103(b)]**

The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not enter into a HAP contract covering a unit until the unit fully complies with HQS.

**Turnover Inspections [24 CFR 983.103(c)]**

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS.
**Bi-annual Inspections [24 CFR 983.103(d)]**

At least bi-annually during the term of the HAP contract, the PHA must inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this bi-annual inspection requirement.

If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, the PHA must re-inspect 100 percent of the contract units in the building.

**HPHA Policy**

All units will be inspected bi-annually.

**Other Inspections [24 CFR 983.103(e)]**

The PHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting HPHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

**Inspecting PHA-owned Units [24 CFR 983.103(f)]**

In the case of PHA-owned units, the inspections must be performed by an independent agency designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.
PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS 17-IV.A.

OVERVIEW [24 CFR 983.151]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

17-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, the PHA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(a)].

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the PHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the PHA will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(b)].

Content of the Agreement [24 CFR 983.152(c)]

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary
by the PHA, specifications and plans. For new construction units, the description must include the working drawings and specifications.

- Any additional requirements for quality, architecture, or design over and above HQS.

**Execution of the Agreement [24 CFR 983.153, FR Notice 11/24/08]**

The Agreement must be executed promptly after PHA notice of proposal selection to the selected owner. Generally, the PHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the PHA may not enter into the Agreement until the environmental review is completed and the HPHA has received environmental approval. However, the PHA does not need to conduct a subsidy layering review in the case of a HAP contract for an existing structure or if the applicable state or local agency has conducted such a review. Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

**HPHA Policy**

The HPHA will enter into the Agreement with the owner promptly after receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.

### 17-IV.C. CONDUCT OF DEVELOPMENT WORK

**Labor Standards [24 CFR 983.154(b)]**

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner’s contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. The PHA must monitor compliance with labor standards.

**Equal Opportunity [24 CFR 983.154(c)]**

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.
Owner Disclosure [24 CFR 983.154(d) and (e)]

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

17-IV.D. COMPLETION OF HOUSING

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

Evidence of Completion [24 CFR 983.155(b)]

At a minimum, the owner must submit the following evidence of completion to the PHA in the form and manner required by the PHA:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the PHA’s discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

HPHA Policy

The HPHA will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. The HPHA will specify any additional documentation requirements in the Agreement to enter into HAP contract.

PHA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the PHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The PHA must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the PHA must not enter into the HAP contract.
If the PHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the PHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

**PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP) 17-V.A.**

**OVERVIEW**

The PHA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. The HAP contract must be in the form required by HUD [24 CFR 983.202].

**17-V.B. HAP CONTRACT REQUIREMENTS**

**Contract Information [24 CFR 983.203, FR Notice 11/24/08]**

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project’s name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any project that will exceed the 25 percent per project cap, which will be set-aside for occupancy by qualifying families; and
- The initial rent to owner for the first 12 months of the HAP contract term.
Execution of the HAP Contract [24 CFR 983.204]

The PHA may not enter into a HAP contract until each contract unit has been inspected and the HPHA has determined that the unit complies with the Housing Quality Standards (HQS). For existing housing, the HAP contract must be executed promptly after the PHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the PHA has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

HPHA Policy

For existing housing, the HAP contract will be executed promptly after the HPHA determines that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed promptly after the HPHA determines that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

Term of HAP Contract [FR Notice 11/24/08]

The PHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 20 years with a term of an additional 20 years.

HPHA Policy

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

At any time before expiration of the HAP contract, the HPHA may extend the term of the contract for an additional term of up to 20 years if the HPHA determines an extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

HPHA Policy

When determining whether or not to extend an expiring PBV contract, the HPHA will consider several factors including, but not limited to:

The cost of extending the contract and the amount of available budget authority;

The condition of the contract units;
The owner’s record of compliance with obligations under the HAP contract and lease(s);

Whether the location of the units continues to support the goals of de-concentrating poverty and expanding housing opportunities; and

Whether the funding could be used more appropriately for tenant-based assistance.

**Termination by PHA [24 CFR 983.205(c)]**

The HAP contract must provide that the term of the PHA’s contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the PHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the PHA may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

**Termination by Owner [24 CFR 983.205(d), FR Notice 1/24/08]**

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the PHA. In this case, families living in the contract units must be offered tenant-based assistance.

At their discretion, the PHA may specify in the HAP contract that the maximum rent on a unit will not be less than the initial rent.

**Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206; FR Notice 1/18/17]**

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify the PHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner’s inability to
collect an increased tenant portion of rent. An owner may renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

Upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owner’s required notice period ends. The PHA must provide the family with a voucher and the family must also be given the option by the PHA and owner to remain in their unit with HCV tenant-based assistance as long as the unit complies with inspection and rent reasonableness requirements. The family must pay their total tenant payment (TIP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to the PHA HCV tenant-based program, and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family’s adjusted monthly income.

Remedies for HQS Violations [24 CFR 983.207(b)]

The PHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the PHA determines that a contract does not comply with HQS, the HPHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

HPHA Policy

The HPHA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

17-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.206(a)]

At the PHA’s discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Before any such substitution can take place, the PHA must inspect the proposed unit and determine the reasonable rent for the unit.
Addition of Contract Units [24 CFR 983.206(b)]

At the PHA’s discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per building and on the overall size of the PHA’s PBV program, a HAP contract may be amended during the three-year period following the execution date of the HAP contract to add additional PBV units in the same building. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

HPHA Policy

The HPHA will consider adding contract units to the HAP contract when the HPHA determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and

Voucher holders are having difficulty finding units that meet program requirements.

17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.206(c) and 983.302(e)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.209]

When the owner executes the HAP contract s/he certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the HPHA, and the lease is in accordance with the HAP contract and HUD requirements;

To the best of the owner’s knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family’s only residence;

The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;

The amount of the HAP the owner is receiving is correct under the HAP contract;

The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;

Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; and

The family does not own or have any interest in the contract unit.

17-V.F. ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.207(a)]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the PHA and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

HPHA Policy

The HPHA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The HPHA will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.
Vacancy Payments [24 CFR 983.352(b)]

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant’s security deposit).

**HPHA Policy**

The HPHA will provide vacancy payments to the owner if there is an agreement to do so.

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**PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS 17-VI.A.**

**OVERVIEW**

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

**17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]**

The PHA may select families for the PBV program from those who are participants in the PHA’s tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the PHA’s collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family must also meet HUD requirements related to current or past criminal activity.
HPHA Policy

The HPHA will determine an applicant family’s eligibility for the PBV program in accordance with the policies in Chapter 3.

In-Place Families [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the PHA is considered an “in-place family.” These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the PHA’s waiting list. Once the family’s continued eligibility is determined (the PHA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the PHA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

The PHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and PBV assistance. The PHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA. If the PHA chooses to offer a separate waiting list for PBV assistance, the PHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If the PHA decides to establish a separate PBV waiting list, the PHA may use a single waiting list for the PHA’s whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

HPHA Policy

The HPHA will establish and manage separate waiting lists for individual projects or buildings that are receiving PBV assistance. Sub-lists are established for various size units.
17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected from the WHA’s waiting list. The HPHA may establish selection criteria or preferences for occupancy of particular PBV units. The HPHA may place families referred by the PBV owner on its PBV waiting list.

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent of the families admitted to the HPHA’s tenant-based and project-based voucher programs during the HPHA fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the HPHA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d), FR Notice 11/24/08]

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The PHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

Although the PHA is prohibited from granting preferences to persons with a specific disability, the PHA may give preference to disabled families who need services offered at a particular project or site if the preference is limited to families (including individuals):

- With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;
- Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
- For whom such services cannot be provided in a non-segregated setting.

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If the PHA has projects with more than 25 percent of the units receiving project-based assistance because those projects include “excepted units” (units specifically made available for elderly or
disabled families, or families receiving supportive services), the PHA must give preference to such families when referring families to these units [24 CFR 983.261(b)].

**HPHA Policy**

The HPHA will provide a selection preference when required by the regulation (e.g., eligible in-place families, qualifying families for “excepted units,” mobility impaired persons for accessible units). The HPHA will not offer any additional preferences for the PBV program or for particular PBV projects or units.

17-VI.E. OFFER OF PBV ASSISTANCE

**Refusal of Offer [24 CFR 983.251(e)(3)]**

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- Deny any admission preference for which the applicant qualifies;
- Change the applicant’s place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the HPHA’s selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

**Disapproval by Landlord [24 CFR 983.251(e)(2)]**

If a PBV owner rejects a family for admission to the owner’s units, such rejection may not affect the family’s position on the tenant-based voucher waiting list.

**Acceptance of Offer [24 CFR 983.252]**

**Family Briefing**

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.
Persons with Disabilities

If an applicant family’s head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

17-VI.F. OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant’s ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(b)].

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA’s waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA’s subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

HPHA Policy

The owner must notify the HPHA in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy.

The HPHA will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.
Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the PHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

**HPHA Policy**

If any contract units have been vacant for 120 days, the HPHA will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. The HPHA will provide the notice to the owner within 10 business days of the 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of the HPHA’s notice.

17-VI.G. TENANT SCREENING [24 CFR 983.255]

**PHA Responsibility**

The PHA is not responsible or liable to the owner or any other person for the family’s behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

**HPHA Policy**

The HPHA will not conduct screening to determine a PBV applicant family’s suitability for tenancy.

The PHA must provide the owner with an applicant family’s current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family’s current landlord and any prior landlords.

In addition, the HPHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

**HPHA Policy**

The HPHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time
of the turnover HQS inspection or before. The HPHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

**Owner Responsibility**

The owner is responsible for screening and selection of the family to occupy the owner’s unit. When screening families the owner may consider a family’s background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.

**PART VII: OCCUPANCY**

**17-VII.A. OVERVIEW**

After an applicant has been selected from the waiting list, determined eligible by the HPHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

**17-VII.B. LEASE [24 CFR 983.256]**

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

**Form of Lease [24 CFR 983.256(b)]**

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.
If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a HPHA model lease.

The HPHA may review the owner’s lease form to determine if the lease complies with state and local law. If the HPHA determines that the lease does not comply with state or local law, the HPHA may decline to approve the tenancy.

**HPHA Policy**

The HPHA will review the owner’s lease for compliance with state or local law.

**Lease Requirements [24 CFR 983.256(c)]**

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

**Tenancy Addendum [24 CFR 983.256(d)]**

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by the HPHA (the names of family members and any HPHA-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

**Initial Term and Lease Renewal [24 CFR 983.256(f) and 983.257(b)]**
The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for “good cause,” or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, the HPHA must provide the family with a tenant-based voucher and remove the unit from the PBV HAP contract.

**Changes in the Lease [24 CFR 983.256(e)]**

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the HPHA a copy of all changes.

The owner must notify the HPHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the HPHA and in accordance with the terms of the lease relating to its amendment. The HPHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

**Owner Termination of Tenancy [24 CFR 983.257]**

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

**Non-Compliance with Supportive Services Requirement [24 CFR 983.257(c), FR Notice 1/24/08]**

If a family is living in a project-based unit that is excepted from the 25 percent per project cap on project-basing because of participation in a supportive services program (e.g., Family Self-Sufficiency), and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.

**Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]**

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by HPHA policy. According to program requirements, the family’s assistance must be terminated if they are absent from the unit for more than 180 consecutive days.
Security Deposits [24 CFR 983.258]

The owner may collect a security deposit from the tenant. The HPHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

**HPHA Policy**

The HPHA will allow the owner to collect a security deposit amount the owner determines is appropriate in accordance with State law.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The HPHA has no liability or responsibility for payment of any amount owed by the family to the owner.

17-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.259]

If the HPHA determines that a family is occupying a wrong size unit, based on the HPHA’s subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the HPHA must promptly notify the family and the owner of this determination, and the HPHA must offer the family the opportunity to receive continued housing assistance in another unit.

**HPHA Policy**

The HPHA will notify the family and the owner of the family’s need to move based on the occupancy of a wrong-size or accessible unit within 10 business days of the HPHA’s determination. The HPHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

- PBV assistance in the same building or project;
- PBV assistance in another project; and
Tenant-based voucher assistance.

If the HPHA offers the family a tenant-based voucher, the HPHA must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family’s voucher (including any extension granted by the HPHA).

If the HPHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the HPHA, or both, the HPHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the HPHA.

**HPHA Policy**

When the HPHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the HPHA will terminate the housing assistance payments at the expiration of this 30-day period.

The HPHA may make exceptions to this 30-day period if needed for reasons beyond the family’s control such as death, serious illness, or other medical emergency of a family member.

**Family Right to Move [24 CFR 983.260]**

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the HPHA. If the family wishes to move with continued tenant-based assistance, the family must contact the HPHA to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the HPHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family’s lease in the PBV unit, the HPHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

**17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.261, FR Notice 11/24/08]**
The HPHA may not pay housing assistance under a PBV HAP contract for more than 25 percent of the number of dwelling units in a project unless the units are [24 CFR 983.56]:

- In a single-family building;
- Specifically made available for elderly or disabled families; or
- Specifically made available for families receiving supportive services as defined by the HPHA. At least one member must be receiving at least one qualifying supportive service.

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined as defined by the HPHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a “qualifying family” in connection with the 25 percent per project cap exception (e.g., the family does not successfully complete supportive services requirements, or due to a change in family composition the family is no longer elderly or disabled), must vacate the unit within a reasonable period of time established by the HPHA, and the HPHA must cease paying housing assistance payments on behalf of the non-qualifying family.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the WHA.

**HPHA Policy**

The HPHA will not provide PBV assistance for excepted units.

**PART VIII: DETERMINING RENT TO OWNER 17-VIII.A.**

**OVERVIEW**

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial
rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner’s request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

17-VIII.B. RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the HPHA, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Certain Tax Credit Units [24 CFR 983.301(c), FR Notice 11/24/08]

For certain tax credit units, the rent limits are determined differently than for other PBV units. These different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same building, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds an HPHA-determined amount (not to exceed 110 percent of the fair market rent or any approved exception payment standard);

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

However, PHAs are permitted to use the higher Section 8 rent for a tax credit unit if the tax credit rent is less than the amount that would be permitted under Section 8. In these cases, Section 8 rent reasonableness requirements must continue to be met.
**Definitions**

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

*Tax credit rent* is the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

**Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]**

When determining the initial rent to owner, the HPHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the HPHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the HPHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment stand amount for use in the PBV program.

Likewise, the HPHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

**HPHA Policy**

Upon written request by the owner, the HPHA will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The HPHA will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the HPHA may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if the WHA determines it is necessary due to HPHA budgetary constraints.
Redetermination of Rent [24 CFR 983.302, FR Notice 11/24/08]

The HPHA must re-determine the rent to owner upon the owner’s request or when there is a five percent or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to owner from the HPHA, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by the HPHA. The HPHA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment. However, the HPHA may stipulate in the HAP contract that the maximum rent on a unit will not be less than the initial rent.

Notice of Rent Change

The rent to owner is re-determined by written notice by the HPHA to the owner specifying the amount of the re-determined rent. The HPHA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

HPHA Policy

An owner’s request for a rent increase must be submitted to the HPHA 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

The HPHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.
**HPHA Policy**

The HPHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

**HPHA-owned Units [24 CFR 983.301(g)]**

For HPHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. The HPHA must use the rent to owner established by the independent entity.

**17-VIII.C. REASONABLE RENT [24 CFR 983.303]**

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the HPHA.

**When Rent Reasonable Determinations are Required**

The HPHA must re-determine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a ten percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The HPHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building; or
- There is any other change that may substantially affect the reasonable rent.

**How to Determine Reasonable Rent**

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the HPHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

**Comparability Analysis**
For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the HPHA. The comparability analysis may be performed by HPHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

HPHA-owned Units

For HPHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for HPHA-owned units to the HPHA and to the HUD field office where the project is located.

Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the HPHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

17-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 17-II.D).

Other Subsidy [24 CFR 983.304]

At its discretion, the HPHA may reduce the initial rent to owner because of other governmental subsidies, including grants and other subsidized financing.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221 (d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

**Combining Subsidy**

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

**Rent Control [24 CFR 983.305]**

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

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**PART IX: PAYMENTS TO OWNER 17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]**

During the term of the HAP contract, the HPHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the HPHA agree on a later date.

Except for discretionary vacancy payments, the HPHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the HPHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.
17-IX.B. VACANCY PAYMENTS [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the HPHA determines that the vacancy is the owner’s fault.

**HPHA Policy**

If the HPHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to keep the housing assistance payment, the HPHA will notify the landlord of the amount of housing assistance payment that the owner must repay. The HPHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the HPHA, the HAP contract may provide for vacancy payments to the owner. The HPHA may only make vacancy payments if:

- The owner gives the HPHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner’s knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the HPHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the HPHA and must provide any information or substantiation required by the HPHA to determine the amount of any vacancy payment.

**HPHA Policy**

If an owner’s HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the HPHA of the vacancy in accordance with the policy in Section 17-VI.F. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the HPHA may
require the owner to provide documentation to support the request. If the owner does not provide the information requested by the HPHA within 10 business days of the HPHA’s request, no vacancy payments will be made.

17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the HPHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the HPHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the HPHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the HPHA. The owner must immediately return any excess payment to the tenant.

**Tenant and HPHA Responsibilities**

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the HPHA.

Likewise, the HPHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The HPHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The HPHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

**Utility Reimbursements**

If the amount of the utility allowance exceeds the total tenant payment, the HPHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The HPHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the HPHA chooses to pay the utility supplier directly, the HPHA must notify the family of the amount paid to the utility supplier.
HPHA Policy

The HPHA will make utility reimbursements to the family.

17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.
PART 17-X: CONVERSION OF PUBLIC HOUSING TO PROJECT-BASED ASSISTANCE UNDER RENTAL ASSISTANCE DEMONSTRATION (RAD) [PIH Notice 2012-32, Revision 2 H 2017-03 Rev-3

INTRODUCTION

On March 17, 2015 the HPHA received two Housing Assistance Payments Contracts (CHAP) from HUD’s Rental Assistance Demonstration Program (RAD). The awards were for Park Terrace (24 units) and one for the senior/disabled building known as Samuel J. Kronman with 100 units.

The CHAP initiated a process to convert the type of assistance the HPHA requires for its Public Housing units. Specifically, this process to convert all of the HPHA’s existing public housing units into units that are assisted by the Project Based Voucher program (PBV).

The HPHA anticipates that the conversion process at both sites will be completed in 2018.

This Part 17-X of Chapter 17A provides special requirements applicable to Public Housing projects converting assistance to long-term PBV Assistance under the second component of RAD.

Regulations prohibit the Authority from administering the Housing Assistance Payments Contracts for units owned by the Authority. The Housing Authority shall contract with an entity to serve as a management agency who shall assume all the rights written in this plan of the Housing Authority.

APPLICABLE REGULATIONS

On a whole, the regulations for both the standard and RAD PBV programs generally follow the regulations for the tenant-based HCV program found at 24 CFR Part 982. However, important parts of the tenant-based regulations do not apply to the project-based program. 24 CFR Part 983 outlines the selections of 24 CFR Part 982 that are not applicable to the project-based program.

For the RAD PBV program, Congress authorized HUD to waive certain statutory and regulatory provisions or establish alternative requirements from the standard PBV program. These provisions are identified in Notice PIH 2012-32, REV-2 (issued June 15, 2015) and Notice PIH 2012-32, REV-3 (issued January 12, 2017).

Otherwise, all regulatory and statutory requirements for the standard PBV program in 24 CFR Part 983 and Section 8(0)(13) of the Housing Act of 1937, and all applicable standing and subsequent
Office of Public and Indian Housing (PIH) guidance, including related handbooks, apply to RAD PBV. This includes environmental review, Davis-Bacon, and fair housing requirements.

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Public Law 112-55, approved November 18, 2011), as amended by the Consolidated Appropriations Act of 2014 (Public Law 113-76, approved January 17, 2014), and the Consolidated and Further Continuing Appropriations Act of 2015 (Public Law 113-235, approved December 6, 2014), and division L, Title II, Section 237 of the Consolidated Appropriations Act (Public Law 114-113, enacted December 18, 2015) collectively, the RAD Statue.” Requirements specific to the RAD program may be found in the following:

- Generally, public housing projects converting assistance under RAD are bound by the terms of the notice in effect at the time of closing. Notice PIH 2012-32, REV-3 is applicable to projects converting assistance through RAD, including those where a CHAP has already been issued, upon the expiration of the 30-day comment period after publication of the notice. Notice PIH 2012-32, REV-3 was published January 12, 2017.

- Notice PIH 2012-32, Rev-2, RAD – Final Implementation, REV-2 is applicable to projects converting assistance through RAD upon expiration of the 3—day comment period after publication of the Notice. PIH Notice 2012-32, Rev-2 was published June 15, 2015.

**NOTE: All Highland Park Housing Authority RAD projects were converted in round two and are subject to the rules and regulations of Notice PIH 2012-32 Rev-2.**

- RAD Quick Reference Guide for Public Housing Converting to PBV Assistance (10/14)
- Notice PIH 2016-17, Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.
  - This Notice applies to all projects that have applied for RAD conversion but have not yet converted as of November 10, 2016.
- Notice PIH 2014-17, Relocation Requirements under the RAD program, Public Housing in the First Component.
  - This Notice may apply to projects that have converted to RAD prior to November 10, 2016, and who have requested and received approval from HUD to be governed by this notice. See PIH Notice 2016-17, Section 1, Paragraph 1.3 for applicability.

RAD FAQs [http://www.radresource.net/search.cfm](http://www.radresource.net/search.cfm)
In other words, the standard PBV program follows many of the same regulations as the tenant-based HCV program, but not all of them, and the RAD PBV program follows many of the same regulations as the standard PBV program, but not all of them.

MTW agencies are able to apply activities impacting the PBV program that are approved in the MTW Plan to properties converting under RAD, provided they do not conflict with RAD requirements.

**TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24cfr 983.2]**

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to RAD PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

**HPHA Policy**

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the HPHA policies for the tenant-based voucher program contained in this administrative plan also apply to the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only.

**PBV RESIDENT RIGHTS AND PARTICIPATION [PIH Notice 2012-32, Revision 1, Section 1.6.C 2017-03 Rev3]**

Rules & Regulations governing all existing tenants covered under the various RAD conversions:

**No Re-screening of Tenants upon Conversion**

Pursuant to the RAD statute, at conversion, current households are not subject to rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for conditions that occurred prior to conversion, but will be subject to any ongoing eligibility requirements for actions that occur after conversion. For example, a unit with a family that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family.
**HPHA Policy**

Relocated tenants returning to the completed site will not be subject to criminal background checks prior to being assigned a new unit.

**Right to Return**

Any family that may need to be temporarily relocated to facilitate rehabilitation or construction will have the right to return to an assisted unit at the Covered Project once rehabilitation or construction is completed. Permanent involuntary displacement of residents may not occur as a result of a change in bedroom distribution, a reduction of units, the reconfiguration of efficiency apartments, or the repurposing of dwelling units in order to facilitate social service delivery. Where the transfer of assistance to a new site is warranted and approved (see Section 1.4.A.12) residents of the Converting Project will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. For more information on how to implement these provisions see the RAD Fair Housing, Civil Rights, and Relocation Notice. Residents of a development undergoing conversion of assistance may voluntarily accept a PHA or Owner’s offer to permanently relocate to another assisted unit, and thereby waive their right to return to the development after rehabilitation or construction is completed.

**HPHA Policy**

There will be no relocation during this process.

**Relocation Requirements**

**(RAD Fair Housing, Civil Rights, and Relocation Notice)**

Relocation requirements related to public housing conversions under RAD are described in Notice H 2016-17; PIH 2016-17, as may be amended from time to time (“RAD Fair Housing, Civil Rights, and Relocation Notice”). The RAD Fair Housing, Civil Rights, and Relocation Notice provides PHAs and their development partners with information and resources on RAD program requirements and Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) requirements when planning for or implementing resident moves in connection with a RAD conversion under the first component of RAD. Specifically, the RAD Fair Housing, Civil Rights, and Relocation Notice provides guidance on relocation planning, resident right to return, relocation assistance, resident notification, initiation of relocation, and the fair housing and civil rights requirements applicable to these activities.
Renewal of Lease

Under current regulations at 24 CFR 983.257(b)(3), upon lease expiration, a PHA can choose not to renew the lease, without good cause. In such a case, the regulatory consequence is the loss of the assisted unit. Under RAD, the PHA must renew all leases upon expiration, unless cause exists. Consequently, 24 CFR 983.257(b)(3) will not apply. This provision must be incorporated by the PBV owner into the tenant lease or tenancy addendum, as appropriate.

HPHA Policy

All families with existing leases will be afforded a new lease upon RAD closing.

Phase-in of Tenant Rent Increases

If a tenant’s monthly rent increases by more than the greater of 10% or $25 purely as a result of conversion, the rent increase will be phased in over 3 or 5 years. To implement this provision, HUD is waiving section 3(a)(1) of the Act, as well as 24 CFR 983.3 (definition of “Total Tenant Payment” (TTP) only to the extent necessary to allow for the phase-in of tenant rent increases. A PHA must create a policy setting the length of the phase in period at three years, five years or a combination depending on circumstances. For example, a PHA may create a policy that uses a three year phase-in for smaller increases and a five year phase-in for larger increases. This policy must be in place at conversion and may not be modified after conversion.

The below method explains the set percentage-based phase-in an owner must follow according to the phase-in period established. For purposes of this section “standard TTP” refers to the TTP calculated in accordance with regulations 24 CFR 5.68 and the “most recently paid TTP” refers to the TTP recorded on line 9j of the family’s most recent HUD Form 50058.

Three Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP and the standard TTP
- Year 2: Year 2 annual recertification (A/R) and any interim recertification (I/R) prior to year 3 A/R – 66% of difference between most recently paid TTP and the standard TTP
- Year 3: Year 3 A/R and all subsequent recertifications – Full standard TTP

Five Year Phase-in:
• Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 20% of difference between most recently paid TTP and the standard TTP
• Year 2: Year 2 A/R and any I/R prior to year 3 A/R – 40% of difference between most recently paid TTP and the standard TTP
• Year 3: Year 3 A/R and any I/R prior to year 4 A/R – 60% of difference between most recently paid TTP and the standard TTP
• Year 4: Year 4 A/R and any I/R prior to year 5 A/R – 80% of difference between most recently paid TTP and the standard TTP
• Year 5: Year 5 A/R and all subsequent recertifications – Full standard TTP

Please Note: In either the three or five year phase-in, once the standard TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward.

HPHA Policy

The HPHA has elected to utilize the three year phase-in plan. Families with members either transitioning from the 100% income disregard to the 50% disregard, or completing the entire twenty-four (24) month EID participation will not be eligible for this rent phase-in.

Resident Participation and Funding

In accordance with PIH-2012-32-REV2 & 2017-03 Rev 3, Attachment 1B, residents of covered projects converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment, which includes the terms and conditions of their tenancy as well as activities related to housing and community development.

1. Legitimate Resident Organization – A project owner must recognize legitimate resident organizations and give reasonable consideration to concerns raised by legitimate resident organizations. A resident organization is legitimate if it has been established by the residents of a covered project, meets regularly, operates democratically, is representative of all residents in the project, and is completely independent of the Project Owner, management, and their representatives.

In the absence of a legitimate resident organization at a covered project, HUD encourages the Project Owner and residents to work together to determine the most appropriate ways to foster a constructive working relationship, including supporting the formation of a legitimate resident organization. Residents are encouraged to contact the Project Owner directly with questions or concerns regarding issues related to their tenancy. Project
Owners are also encouraged to actively engage residents in the absence of a resident organization; and

2. **Protected Activities** – Project Owners must allow residents and resident organizers to conduct the following activities related to the establishment or operation of a resident organization:

   a. Distributing leaflets in lobby and common areas;
   b. Placing leaflets at or under resident’s doors;
   c. Initiating contact with residents;
   d. Conducting door-to-door surveys of residents to ascertain interest in establishing a resident organization and to offer information about resident organizations;
   e. Posting information on bulletin boards;
   f. Assisting residents participation in resident organization activities;
   g. Convening regularly scheduled resident organization meetings in a space on site and accessible to residents, in a manner that is fully independent of management representatives. In order to preserve the independence of resident organizations, management representatives may not attend such meetings unless invited by the resident organization to specific meetings to discuss a specific issue or issues; and
   h. Formulating responses to Project Owner requests for:
      - Rent increases;
      - Partial payment claims;
      - The conversion from project-based paid utilities to resident-paid utilities;
      - A reduction in resident utility allowances;
      - Converting residential units to non-residential use, cooperative housing, or condominiums;
      - Major capital additions; and
      - Prepayment of loans.

In addition to these activities, Project Owners must allow residents and resident organizers to conduct other reasonable activities related to the establishment or operation of a resident organization.

Project Owners shall not require residents and resident organizers to obtain prior permission before engaging in the activities permitted in this section.
3. **Meeting Space** – Project Owners must reasonably make available the use of any community room or other available space appropriate for meetings that is part of the multifamily housing project when requested by:
   a. Residents or a resident organization and used for activities related to the operation of the resident organization; or
   b. Residents seeking to establish a resident organization or collectively address issues related to their living environment.

Resident and resident organization meetings must be accessible to persons with disabilities, unless this is impractical for reasons beyond the organization’s control. If the project has an accessible common area or areas, it will not be impractical to make organizational meetings accessible to persons with disabilities.

Project Owners may charge a reasonable, customary and usual fee, approved by the Secretary as may normally be imposed for the use of such facilities in accordance with procedures prescribed by the Secretary, for the use of meeting space. A PHA may waive this fee.

4. **Resident Organizers** – A resident organizer is a resident or a non-resident who assists residents in establishing and operating a resident organization, and who is not an employee or representative of current or prospective Project Owners, managers, or their agents.

   Project Owners must allow resident organizers to assist residents in establishing and operation resident organizations.

5. **Canvassing** – If a covered project has a consistently enforced, written policy against canvassing, then a non-resident organizer must be accompanied by a resident while on the property of the project.

   If a project has a written policy favoring canvassing, any non-resident resident organizer must be afforded the same privileges and rights of access as other uninvited outside parties in the normal course of operations. If the project does not have a consistently enforced, written policy against canvassing, the project shall be treated as if it has a policy favoring canvassing.

   A resident has the right to be re-canvassed against his or her wishes regarding participation in a resident organization.
6. **Funding** – Project Owners must provide $25 per occupied unit annually for resident participation, of which at least $15 per occupied unit shall be provided to the legitimate resident organization at the covered property. These funds must be used for resident education, organizing around tenancy issues, and training activities. In the absence of a legitimate resident organization at a covered project:
   a. HUD encourages the Project Owner and residents to work together to determine the most appropriate ways to foster a constructive working relationship, including supporting the formation of a legitimate resident organization. Residents are encouraged to contact the Project Owner directly with questions or concerns regarding issues related to their tenancy. Project Owners are encouraged to actively engage residents in the absence of a resident organization; and
   b. Project Owners must make resident participation funds available to residents for organizing activities in accordance with this notice. Residents must make requests for these funds in writing to the Project Owner. These requests will be subject to approval by the Project Owner.

**HPHA Policy**

The HPHA will continue to support and fund a duly elected Resident Council.

Canvassing by non-residents at each of our sites will be prohibited unless accompanied by an employee, or in the case of a resident organizer, by a resident.

**Public Housing Family Self-sufficiency (PHFSS) and Resident Opportunities and Self-sufficiency Service Coordinator (ROSS-SC) programs**

Current PH FSS participants will continue to be eligible for FSS once their housing is converted under RAD, and PHAs will be allowed to use any PH FSS funds granted previously or pursuant to the FY 2013 PH FSS NOFA, to serve those FSS participants who live in units converted by RAD and who will as a result be moving to the HCV FSS program, subject to the following:

   a) If a PHA has an HCV FEE program, a PHA must convert the PH FSS program participants at the covered project to their HCV FSS program. Please see future FSS Notices of Funding Availability (NOFA) and other guidance for additional details, including FSS Coordinator funding eligibility of PHAs under RAD conversion.

   b) If a PHA does not have an HCV FSS program, the PHA must establish an HCV FSS program and convert the PH FSS program participants at the covered project into their HCV FSS program. PHAs are not required to offer enrollment in FSS to residents in converting projects and other HCV participants, other than to residents in converting projects that were enrolled in the PH FSS program. Please see future FSS NOFAs and
other guidance for additional details, including FSS Coordinator funding eligibility of PHAs under a RAD conversion.

All PHAs will be required to administer the FSS program in accordance with FSS regulations at 24 CFR Part 984 and in accordance with the participants’ contracts of participation. However, residents who were converted from the PH FSS program to the HCV FSS program through RAD may not be terminated from the HCV FSS program or have assistance withheld due to the participant’s failure to comply with the contract of participation. Consequently, 24 CFR 984.303(b)(5)(iii) does not apply to FSS participants in converted properties.

Current ROSS-SC grantees will be able to finish out their current ROSS-SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS-SC grants, nor will its residents be eligible to be served by future public housing ROSS-SC grants.

**HPHA Policy**

The HPHA has never enacted a public housing FSS program, so there will be no participants to convert to the HCV FSS program. The current ROSS-SC grant was awarded to the WGA Resident Council and will expire in June 2017. Pursuant to the RAD conversion, the residents will no longer be eligible to apply for future ROSS-SC grants.

**Resident Procedural Rights**

The following items must be incorporated into both the Section 8 Administrative Plan and the owner’s lease, which includes the required tenancy addendum, as appropriate. Evidence of such incorporation may be requested by HUD for purposes of monitoring the program.

**I. Termination Notification** HUD is incorporating additional termination notification requirements to comply with section 6 of the Act for public housing projects that convert assistance under RAD. In addition to the regulation at 24 CFR 983.257 related to Project Owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which shall not be less than:

a. A reasonable period of time, but not to exceed 30 days:
   1. If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
2. In the event of any drug-related or violent criminal activity or any felony conviction;
   b. 14 days in the case of non-payment of rent; and
   c. 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.

II. **Grievance Process** Pursuant to requirements in the RAD Statute, HUD is establishing additional procedural rights to comply with section 6 of the ACT.

For issues related to tenancy and termination of assistance, PBV program rules require the Project Owner to provide an opportunity for an informal hearing, as outlined in 24 CFR 982.555. RAD will specify alternative requirements for 24 CFR 982.555 (b) in part, which outlines when informal hearings are not required, to require that:

a. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR 982.555 (a)(1)(i)-(vi), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a Project Owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident’s rights, obligations, welfare, or status.
   1. For any hearing required under 24 CFR 982.555 (a)(1)(i)-(vi), the contract administrator will perform the hearing, as is the current standard in the program. The hearing officer must be selected in accordance with 24CFR 982.555(e)(4)(i).
   2. For any additional hearings required under RAD, the Project Owner will perform the hearing.

b. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or contract administrator.

c. The Project Owner gives residents notice of their ability to request an informal hearing as outlined in 24 CFR 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR 982.555 (a)(1)(i)-(vi).

d. The Project Owner provides opportunity for an informal hearing before an eviction.

**Lease Termination at Conversion is Not an Adverse Action** 24 CFR 966.4(e)(8)(i) classifies lease termination as an adverse action for which a tenant can seek a hearing under the PHA’s grievance procedure. Public housing lease terminations that occur as part of a RAD conversion do not qualify as an adverse action, provided that the tenants are provided with a notice of termination in accordance with 24 CFR 966.4(1)(3) as well as information on when and how they will receive their
new Section 8 lease, which must be effective the same date the HAP Contract becomes effective. Grievance procedure requirements do not apply to these lease terminations.

**HPHA Policy**

The owner of the covered project must comply with all State laws regarding causes and notification time when processing an eviction proceeding for any resident in a covered project. “Good Causes” for eviction can be found in 24 CFR 982.310 with the exception of a business or economic reason or desire to use the unit for an individual, family, or non-residential rental purpose. All residents of covered projects are also afforded all of the protections for victims of domestic violence, dating violence, or stalking as stated in the Violence Against Women Act (VAWA). The owner must advise the HPHA of any adverse action taken against the resident.

Termination of rental assistance for residents in covered projects will be initiated and completed in the same manner as for participants in the HCV program. **Residents in covered projects are subject to the same requirements as HCV program participants as highlighted in chapter 12 of this Admin Plan.**

Hearing procedures for residents in covered projects will be conducted in the same manner as for those participants of the HCV program, using the Hearing Officers appointed by the HPHA. The HPHA conducts the hearings for all actions covered in 24 CFR 982.555. For all other adverse actions requiring a hearing under RAD, the Project Owner will conduct the hearing.

**III. Earned Income Disregard (EID)** Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR 5.617. Upon the expiration of the EID for such families, the rent adjustment shall not be subject to the rent phase-in, as described in PIH-2012-32-REV1, Section 1.6.C.4; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time.

Under the Housing Choice Voucher (HCV) Program, the EID exclusion is limited to only persons with disabilities (24 CFR 5.617(b)). In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in section 5.617(b) limiting EID to only disabled persons is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time
of the conversion. No other tenant (e.g., tenants who at one time received the EID, but are not receiving the EID exclusion at the time of conversion (e.g., due to loss of employment); tenants that move into the property following conversion, etc.,) is covered by this waiver.

**HPHA Policy**

Current PH tenants that have been deemed eligible for the EID and for whom the 24 month disallowance of income period has begun, will continue to receive the appropriate disallowance until their 24 months has expired. However, if at the time of conversion, a tenant’s disallowance has been suspended because they have for any reason stopped working during the 24 month allowable completion time-frame, they will be exempt from this waiver and will not be permitted to resume any of the disallowance they may have been eligible for. (Eligible disabled tenants, who experience a loss of employment and thereby have their disallowance suspended after the time of conversion, will resume the disallowance of income if they resume employment before the expiration of the eligibility period.) All new tenants who move into the project after the conversion will be exempt from this waiver.

**IV. Jobs Plus**

Grantees awarded FY14 and future funds that convert the Jobs Plus target projects under RAD will be able to finish out their Jobs Plus period of performance at that site unless significant re-location and/or change in building occupancy is planned. If either is planned at the Jobs Plus target projects, HUD may allow for a modification of the Jobs Plus work plan or may, at the Secretary’s discretion, choose to end the Jobs Plus program at that project.

**HPHA Policy**

The HPHA does not have any Job Plus target projects.

**V. When Total Tenant Payment Exceeds Gross Rent**

Under normal PBV rules, the PHA may select an occupied unit to be included under the PBV HAP contract if the unit’s occupants are eligible for housing assistance payments (24 CFR 983.53(c). Also a PHA must remove a unit from the contract when no assistance has been paid for 180 days because the family’s TTP has risen to a level that is equal to or greater than the current rent, plus any utility allowance, for the unit (i.e. the gross rent) (24 CFR 983.258). Since the rent limitation under this section of the notice may result in a family’s TTP equaling or exceeding the gross rent for the unit, for current residents (i.e. residents living in the
public housing property prior to conversion and who will return to the Covered Project after the conversion), HUD is waiving both of these provisions and requiring that the unit for such families be placed on and/or remain under the HAP contract when TTP equals or exceeds the gross rent. **Further, HUD is establishing the alternative requirement that until such time that the family’s TTP falls below the gross rent, the rent to the owner for the unit will equal the lesser of (a) the family’s TTP, less the Utility Allowance, or (b) any applicable maximum rent under LIHTC regulations. When the family’s TTP falls below the gross rent, normal PBV rules shall apply.** HUD is waiving as necessary to implement this alternative provision, the provisions of Section 8(o)(13)(H) of the Act and the implementing regulations at 24 CFR 983.301 as modified by Section 1.6.B.5 of this Notice. In such cases, the resident is considered a participant under the program and all of the family obligations and protections under RAD and PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract. Assistance may subsequently be reinstated if the tenant becomes eligible for assistance. The PHA is required to process these individuals through the Form-50058 submodule in PIC.

Following conversion, 24 CFR 983.53(D) applies, and any new families referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program, which means their TTP may not exceed the gross rent for the unit at that time. Further, a PHA must remove a unit from the contract when no assistance has been paid for 180 days. If units are removed from the HAP contract because a new admission’s TTP comes to equal or exceed the gross rent for a unit and if the project is fully assisted, HUD is imposing an alternative requirement that the PHA must reinstate the unit after the family has vacated the property; and, if the project is partially assisted, the PHA may substitute a different unit on the HAP contract in accordance with 24 CFR 983.207 or, where “floating” units have been permitted, Section 1.6.B.10 of this notice.

**HPHA Policy**

Current HPHA tenants with TTPs that equal or exceed the established gross rent for the unit size their family is eligible to occupy at the time of the conversion will be eligible for transfer into an appropriate size unit in the newly constructed units. However, the gross rent payable to the owner for their unit will be adjusted to equal the amount of their TTP. No HAP will be made to the owner on their behalf by the HPHA unless some circumstance affecting the family’s income renders the family eligible for assistance at which time the assistance will be reinstated. The unit however, will remain as a part of the HAP contract without a subsidy being paid. However, when that family moves out, the unit must be re-leased to an income
eligible family whose TTP may not exceed the established gross rent. Should families who occupy the unit subsequent to the conversion become ineligible for assistance and no HAP is paid for 180 days, the unit must be removed from the HAP contract and reinstated after the ineligible family has vacated.

VI. **Under-Occupied Unit** If a family is in an under-occupied unit under 24 CFR 983.260 at the time of conversion, the family may remain in this unit until an appropriate-sized unit becomes available in the Covered Project. When an appropriate sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriate sized unit within a reasonable period of time, as determined by the administering Voucher Agency. In order to allow the family to remain in the under-occupied unit until an appropriate sized unit becomes available in the Covered Project, 24 CFR 983.260 is waived. MTW agencies may not modify this requirement.

**HPHA Policy**

The HPHA will make every effort to transfer all current tenants into the correct size unit based on their family composition in the Covered Project. Every effort will also be made to ensure that the accessible units are assigned to families with a need for such accessibility. However, should it become necessary to assign a tenant to a unit that is larger than HPHA they require, or to an accessible unit that is not necessary for any family member, they will be advised that they will be transferred as soon as an appropriate size unit is available, or in the case of an accessible unit, whenever another family requires the accessible features of the unit. Likewise, if a family’s composition or circumstance changes during tenancy, but following the conversion, whereby they require either a larger or smaller unit, or a unit with special features, they will be put on a transfer list to be transferred to an appropriate unit as soon as one is available.

The HPHA will provide residents to be transferred with as much advance notice as possible regarding the availability of an upcoming appropriate unit. At the senior sites owned by the Towers and Gardens Corp. the transferring resident will have seven (7) days to vacate and return the keys for their previous unit after signing the lease and being presented with the keys to their new unit.

**Establishment of Waiting List**
24 CFR 983.251 sets out PBV program requirements related to establishing and maintaining a voucher-wide PBV program-wide, or site-based waiting list from which residents for the Covered Project will be admitted. These provisions will apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies. The PHA shall consider the best means to transition applicants from the current public housing waiting list, including:

a. Transferring an existing site-based waiting list to a new site-based waiting list.
b. Transferring an existing site-based waiting list to a PBV program-wide or HCV program-wide waiting list.
c. Transferring an existing community-wide public housing waiting list to a PBV program-wide or HCV program-wide waiting list, an option particularly relevant for PHAs converting their entire portfolio under RAD.
d. Informing applicants on a community-wide public housing waiting list how to transfer their application to one or more newly created site-based waiting lists.

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a Covered Project converting to PBV because the household’s TTP is likely to exceed the RAD gross rent, the PHA shall consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA’s remaining public housing waiting list for the Covered Project.

To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait list(s) to which their application was transferred in accordance with the date and time of their application to the original waiting list.

If the PHA is transferring the assistance to another neighborhood and, as a result of the transfer of the waiting list, the applicant would only be eligible for a unit in a location which is materially different from the location to which the applicant applied, the PHA must notify applicants on the wait list of the transfer of assistance, and on how they can apply for residency at other sites.

If using a site-based waiting list, PHAs shall establish a waiting list in accordance with 24 CFR 903.7(b)(2)(ii)-(iv) to ensure that applicants on the PHAs public housing community-wide waiting list have been offered placement on the converted project’s initial waiting list. In all cases, PHAs have the discretion to determine the most appropriate means of informing applicants on the public housing community-wide waiting list given the number of applicants, PHA resources, and admissions requirements of the projects being converted under RAD. A PHA may consider contacting every applicant on the public housing waiting
list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g. radio stations, posters, newspapers) within the marketing area; informing local non-profit entities and advocacy groups (e.g. disability rights groups); and conducting other outreach as appropriate. Applicants on the agency’s public housing community-wide list who wish to be placed onto the newly-established site-based waiting list must be done so in accordance with the date and time of their original application to the centralized public housing waiting list. Any activities to contact applicants on the public housing waiting list must be conducted in accordance with the requirements for effective communication with persons with disabilities at 24 CFR 8.6 and with the obligation to provide meaningful access for persons with limited English proficiency (LEP).

A PHA must maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies.

To implement this provision, HUD is specifying alternative requirements for 24 CFR 983.251(c)(2). However, after the initial waiting list has been established, the PHA shall administer its waiting list for the covered project in accordance with 24 CFR 983.251(c).

**HPHA Policy**

Placement on the waiting list does not indicate that the family is, in fact eligible for admission. A final determination of eligibility and qualification for preferences will be made when the family is selected from the waiting list.

Applicants will be placed on the waiting list according the HPHA preferences and the date and time their completed application is received by the HPHA.

The HPHA will assign families on the waiting list according to the bedroom size (Waiting list sub-lists) for which the family qualifies as established in its occupancy standards (see Chapter 5). Based on HPHA Occupancy Standards for each of its properties, families may qualify for two different bedroom size sub-wait lists. However, if the family requests to be placed on the smaller bedroom size wait list in these cases, the family must be informed that their request for transfer to a larger size unit will not be approved, unless they have a change in family size due to birth, adoption, court order or HPHA approved adult addition to the family composition.

The waiting list will be opened to accept new applications as the list diminishes either in total, or by unit size. When either the entire PBV waiting list or the list for
a particular bedroom size unit is going to be opened to accept applications, a notice will be placed in the newspaper of record and posted on the Highland Park Housing Authority Web Site. Specific instructions to submit an application will be included in the notice, but there will generally be a select window of time allotted in which to submit the application. It may be decided based on staff availability, to accept applications only in person at a specified time, or by mail with a specified return date. We may also, going forward, accept applications electronically. Whatever the mechanism, the exact instructions will be outlined in the instructions.

**Choice-Mobility**

One of the key features of the PBV program is the mobility component, which provides that if the family has elected to terminate the assisted lease at any time after the first year of occupancy in accordance with program requirements, the PHA must offer the family the opportunity for continued tenant-based rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

If as a result of participation in RAD a significant percentage of the PHA’s HCV program becomes PBV assistance, it is possible for most or all of a PHA’s turnover vouchers to be used to assist those RAD PBV families who wish to exercise mobility. While HUD is committed to ensuring mobility remains a cornerstone of RAD policy, HUD recognizes that it remains important for the PHA to still be able to use tenant-based vouchers to address the specific housing needs and priorities of the community. Therefore HUD is establishing an alternative requirement for PHAs where, as a result of RAD, the total number of PBV units (including RAD PBV units) under HAP contract administered by the PHA exceeds 20 percent of the PHA’s authorized units under its HCV ACC with HUD.

The alternative mobility policy provides that an eligible voucher agency would not be required to provide more than three-quarters of its turnover vouchers in any single year to the residents of a Covered Project. While a voucher agency is not required to establish a voucher inventory turnover cap, if such a cap is implemented, the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received. In order to adopt this provision, this alternative mobility policy must be included in an eligible PHA’s administrative plan.

To effectuate this provision, HUD is providing an alternative requirement to Section 8(o)(13)9E and 24 CFR part 983.261(c). Please note that this alternative requirement does not apply to PBVs entered into outside of the context of RAD. MTW agencies may not alter this requirement.

**HPHA Policy**

Residents who have completed twelve (12) months of residency in a converted project are eligible to request a mobility voucher. Upon request, their name will be added to a mobility waiting list until such time that such a voucher becomes available.
75% of the annual voucher turnovers will be allotted to this waiting list.

**Administrative Fees for Public Housing Conversions During the Year of Conversion** for the remainder of the calendar year in which the HAP Contract becomes effective (i.e., the “year of conversion”), RAD PBV projects will be funded with public housing funds. For example, if the project’s assistance converts effective July 1, 2015, the public housing ACC between the PHA and HUD will be amended to reflect the number of units under HAP contract, but will be for zero dollars, and the RAD PBV HAP Contract will be funded with public housing money for July through December 2015. Since tenant based rental assistance (TBRA) is not the source of funds, PHAs should not report leasing and expenses into VMS during this period, and PHAs will not receive Section 8 administrative fee funding for converted units during this time.

PHAs operating HCV program typically receive administrative fees for units under a HAP Contract, consistent with recent appropriation act references to “section 8(q) of the [United States Housing Act of 1937] and related appropriations act provisions in effect immediately before the Quality Housing and Work Responsibility Act of 1998” and 24 CFR 983.152(b). During the year of conversion mentioned in the preceding paragraph, these provisions are waived. PHAs will not receive Section 8 administrative fees for PBV RAD units during the year of conversion.

After the year of conversion, the Section 8 ACC will be amended to include Section 8 funding that corresponds to the units covered by the Section 8 ACC. At that time, the regular Section 8 administrative fee funding provisions will apply.

**RAD Exceptions**

**Length of HAP Contract**

Covered projects shall have an initial HAP contract term of at least 15 years. (up to 20 years upon request of the project owner with the approval by the administering voucher agency)

Alternative requirement to 24 CFR 983.205 (a)

**Mandatory Contract Renewal**

In accordance with the RAD statute, upon expiration of the initial contract and each renewal contract, the administering voucher agency must offer, and the project owner must accept, renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. Consequently, section 24 CFR 205 (b) giving the PHA discretion to renew the contract will not apply to the extent that these provisions make renewal or extension decisions purely discretionary.
**Initial Contract Rent Setting**

HUD has calculated initial contract rents for every public housing project based on each project’s subsidy under the public housing program.

Contract rents will be adjusted only by HUD’s OCAF at each anniversary of the HAP contract subject to the availability of appropriations for each year of the contract term. As such, section 24 CFR 983.301 and 983.302 concerning rent determinations shall not apply when adjusting rents.

The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in the private market as determined by 24 CFR 983.303. However, the rent to the owner shall not be reduced below the initial rent to owner for dwelling units under the initial HAP contract.

**Agreement Waiver and RAD Rehab Assistance Payments**

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payment (AHAP) contract. All regulatory references to AHAP including regulations under 24 CFR part 983 subpart D are waived.

Typically, the PHA and project owner will enter into a HAP contract before construction begins, during the period of rehabilitation or construction as identified in the RCC (RAD Conversion Commitment) and the HAP contract, the maximum number of units for which a project owner can receive RAD Rehab Assistance Payments is limited to the number of units eligible for operating or capital fund subsidy prior to conversion. At the end of construction/rehab, the PHA will no longer be eligible to receive RAD Rehab Assistance Payments, and all units under contract will be eligible for payment only for occupied units, or for vacancy payments as applicable.

**HQS Inspections**

Under current regulations a unit covered under a HAP contract must be inspected and must meet HQS before assistance can be paid on behalf of a household.

When work is occurring under RAD, HUD requires that all units meet HQS no later than the date of completion of the work as indicated in the RCC. HUD is waiving and establishing alternative requirement to 24 CFR 983.103 (b).

**TRANSFER POLICY**

**PBV – HPHA OWNED UNITS**

**INTRODUCTION**
This chapter explains the PHA’s transfer policy, based on HUD regulations, HUD guidance, and PHA policy decisions.

This chapter describes HUD regulations and PHA policies related to transfers in four parts:

- **Part I: Emergency Transfers.** This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.

- **Part II: PHA Required Transfers.** This part describes types of transfers that may be required by the PHA, notice requirements, and payment of transfer costs.

- **Part III: Transfers Requested by Residents.** This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

- **Part IV: Transfer Processing.** This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development and reexamination.

The PHA may require the tenant to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the tenant must be provided that may or may not require a transfer.

The tenant may also request a transfer, such as a request for a new unit as a reasonable accommodation.

The PHA must have specific policies in place to deal with acceptable transfer requests.

**PART I: EMERGENCY TRANSFERS**

**OVERVIEW**

HUD categorizes certain actions as emergency transfers [PH Occ. GB, p. 147]. The emergency transfer differs from a typical transfer in that it requires immediate action by the PHA.

In the case of a genuine emergency, it may be unlikely that the PHA will have the time or resources to immediately transfer a tenant. Due to the immediate need to vacate the unit, placing the tenant on a transfer waiting list would not be appropriate. Under such circumstances, if an appropriate unit is not immediately available, the PHA should find alternate accommodations for the tenant until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is reached.

**EMERGENCY TRANSFERS**

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the PHA must offer standard alternative
accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

HPHA Policy

The following is considered an emergency circumstance warranting an immediate transfer of the tenant or family and the condition was not caused or is no fault of the resident and/or resident household members or guests:

Maintenance conditions in the resident’s unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include but not limited to: a gas leak; no heat in the building during the winter; no water; fire, toxic contamination; and serious water leaks.

EMERGENCY TRANSFER PROCEDURES

HPHA Policy

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, HPHA will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, HPHA will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers are mandatory for the tenant. The tenant may be required to move to a unit in another development.

COSTS OF TRANSFER

HPHA Policy

HPHA will bear the reasonable costs of temporarily accommodating the tenant and of long term transfers, if any, due to emergency conditions.

The reasonable cost of transfers includes the cost of packing, moving, and unloading.

HPHA will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, HPHA will collect information from companies in the community that provide these services.
HPHA will reimburse the family for eligible out-of-pocket moving expenses up to HPHA’s established moving allowance.

Where the damage cannot be abated or repaired in 24 hours and the cause of the damage is the responsibility of the resident, their household members or guest, the resident will bear the costs of accommodations and/or transfer costs.

**PART II: PHA REQUIRED TRANSFERS**

**OVERVIEW**

HUD regulations regarding transfers are minimal, leaving it up to the PHA to develop reasonable transfer policies.

The PHA may require that a resident transfer to another unit under some circumstances. For example, the PHA may require a resident to transfer to make an accessible unit available to a disabled family. The PHA may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, a PHA may transfer residents in order to demolish or renovate the unit.

A transfer that is required by the PHA is an adverse action, and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

**TYPES OF PHA REQUIRED TRANSFERS**

**HPHA Policy**

The types of transfers that may be required by HPHA, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers required by HPHA are mandatory for the tenant.

**TRANSFER TO MAKE A UNIT ACCESSIBLE**
When a family is initially given an accessible unit, but does not require the accessible features, the PHA may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

**HPHA Policy**

When a non-accessible unit becomes available, HPHA will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. HPHA may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

**Occupancy Standards Transfers**

The PHA may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to PHA policy [24 CFR 960.257(a)(4)]. On some occasions, the PHA may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the tenant’s agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

**HPHA Policy**

HPHA will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

*Overcrowded*: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart(S) in Section 5-I.B.

*Over-housed*: the family no longer qualifies for the bedroom size in which they are living based on HPHA’s occupancy standards as described in Section 5-I.B.

HPHA may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on HPHA occupancy standards, when HPHA determines there is a need for the transfer.

HPHA may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by HPHA that a transfer is necessary and that the family has been placed on the transfer list. However, this is subject to the policies on Occupancy Standards stated in Chapter 5 of the ACOP.
Demolition, Disposition, Revitalizations, or Rehabilitation Transfers

These transfers permit the PHA to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ. GB, page 148].

**HPA Policy**

HPA will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. HPA’s relocation plan may or may not require transferring affected families to other available public housing units.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

**ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]**

A PHA required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, the PHA may not take action on the transfer until the conclusion of the grievance process.

**COST OF TRANSFER**

**HPA Policy**

HPA will bear the reasonable costs of transfers that WHA requires, except that residents will be required to bear the cost of occupancy standards transfers.

The reasonable costs of transfers include the cost of packing, moving, and unloading.

HPA will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, HPA will collect information from companies in the community that provide these services.

HPA will reimburse the family for eligible out-of-pocket moving expenses up to HPHA’s established moving allowance.
HPHA is not responsible for required transfers that are due to damage caused by the resident, household or guests that cannot be repaired or abated within 24 hours and are threats to safety and security.

PART III: TRANSFERS REQUESTED BY TENANTS  OVERVIEW

HUD provides the PHA with discretion to consider transfer requests from tenants. The only requests that the PHA is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of the PHA. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by the PHA.

Some transfers that are requested by tenants should be treated as higher priorities than others due to the more urgent need for the transfer.

TYPES OF RESIDENT REQUESTED TRANSFERS

HPHA Policy

The types of requests for transfers that HPHA will consider are limited to requests for transfers to alleviate a serious or life threatening medical condition, transfers due to a threat of physical harm, including irreconcilable conflicts between tenants, or any type of illegal criminal activity, reasonable accommodation, transfers to a different unit size as long as the family qualifies for the unit according to WHA’s occupancy standards, transfers of non-elderly disabled families from sites now designated as elderly only, and transfers to a location closer to employment. No other transfer requests will be considered by HPHA.

HPHA will consider the following as high priority transfer requests:

When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature

When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at HPHA’s discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, a hate crime, or domestic violence, dating violence, sexual assault, or stalking. Also considered will be irreconcilable conflicts.
When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first floor unit for a person with mobility impairment, or a transfer to a unit with accessible features.

Transfers requested by the tenant are considered optional for the tenant and costs of the transfer are the responsibility of the resident/household.

**ELIGIBILITY FOR TRANSFER**

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, the PHA may establish other standards for considering a transfer request [PH Occ. GB, p. 150].

**HPHA Policy**

Except where reasonable accommodation is being requested, HPHA will only consider transfer requests from residents that meet the following requirements:

- Have not engaged in criminal activity that threatens the health and safety or residents and staff
- Owe no back rent or other charges, or have a pattern of late payment
- Have no housekeeping lease violations or history of damaging property
- Can get utilities turned on in the name of the head of household (applicable only to properties with tenant-paid utilities)

A resident with housekeeping standards violations will not be transferred until the resident passes a minimum of three inspections based on a schedule set by HPHA.

Exceptions to the good record requirement may be made when it is to HPHA’s advantage to make the transfer.

If a family requested to be placed on the transfer waiting list it is HPHA responsibility to determine the appropriate unit size for the family’s current circumstances.

**SECURITY DEPOSITS**

**HPHA Policy**
When a family transfers from one unit to another, HPHA will transfer their security deposit to the new unit. The tenant will be billed for any maintenance or other charges due and outstanding for the previous unit beyond normal wear and tear.

COST OF TRANSFER

The PHA must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident’s disability [Notice PIH 2006-13].

HPHA Policy

The resident will bear all of the costs of transfer s/he requests. However, HPHA will bear the transfer costs when the transfer is done as a reasonable accommodation.

HANDLING OF REQUESTS

HPHA Policy

Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.

In case of a reasonable accommodation transfer, HPHA will ask the resident to make the request in writing using a reasonable accommodation request form. However, HPHA will consider the transfer request any time the resident indicates that an accommodation is needed by assisting the resident to complete the required form.

HPHA will follow policies regarding verifying reasonable accommodation and method of verification previously described in these policies.

HPHA will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family.

If the family does not meet the “good record” requirements under Section 12-III.C., the manager will address the problem and, until resolved, the request for transfer will be denied.

HPHA will respond within 15 calendar days of the submission of the family’s request. If HPHA denies the request for transfer, the family will be informed of its grievance rights.

PART IV: TRANSFER PROCESSING

OVERVIEW
Generally, transfers should be placed on a transfer list and handled in the appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience disparate treatment.

TRANSFER LIST

HPHA Policy

HPHA will maintain an agency-wide transfer waiting list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.

Emergency transfers will not automatically go on the transfer list. Instead emergency transfers will be handled immediately, on a case by case basis. If the emergency will not be finally resolved by a temporary accommodation, and the resident requires a permanent transfer, that transfer will be placed at the top of the transfer list.

Transfers will be processed in the following order:

1. Emergency transfers (hazardous maintenance conditions)
2. Third Party Verified High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
3. Transfers to make accessible units available
4. Demolition, renovation, etc.
5. Occupancy standards
6. Other PHA-required transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

Demolition and renovation transfers will gain the highest priority as necessary to allow HPHA to meet the demolition or renovation schedule.

HPHA will maintain the transfer waiting list and transfers will be offered on a case-by-case basis within the priority order of the transfer waiting list. HPHA will balance the ability to house eligible applicant families.

TRANSFER OFFER POLICY

HPHA Policy
Residents will receive one offer of a transfer.

When the transfer is required by HPHA, refusal of that offer without good cause, reflected in the lease document, will result in lease termination.

When the transfer has been requested by the resident, refusal of that offer without good cause will result in the removal of the household from the transfer list and the family must wait twelve months to reapply for another transfer.

GOOD CAUSE FOR UNIT REFUSAL

HPHA Policy

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to HPHA’s satisfaction that accepting the offer will place a family member’s life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application).

The unit is inappropriate for the applicant’s disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

The unit has lead-based paint and the family includes children under the age of six.

HPHA will require documentation of good cause for unit refusals.

DECONCENTRATION

HPHA Policy

If subject to deconcentration requirements, HPHA will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established
Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve HPHA’s deconcentration goals. A deconcentration offer will be considered a “bonus” offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

REEXAMINATION POLICIES FOR TRANSFERS

HPHA Policy

The reexamination date will be the original move in date of the resident household.

PETS

PBV-HPHA OWNED UNITS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION

This chapter explains the PHA’s policies on the keeping of pets and any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of the PHA to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of the PHA.

The chapter is organized as follows:

Part I: Assistance Animals. This part explains the difference between assistance animals and pets and contains policies related to the designation of an assistance animal as well as their care and handling.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

Part III: Pet deposits and fees for elderly/disabled developments. This part contains policies for pet deposits and fees that are applicable to elderly/disabled developments.

Part IV: Pet deposits and fees for general occupancy developments. This part contains policies for pet deposits and fees that are applicable to general occupancy developments.
PART I: ASSISTANCE ANIMALS
[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303]

OVERVIEW

This part discusses situations under which permission for an assistance animal may be denied, and also establishes standards for the care of assistance animals.

Assistance animals are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals – often referred to as “service animals,” “assistive animals,” “support animals,” or “therapy animals” – perform many disability-related functions, including but not limited to the following:

- Guiding individuals who are blind or have low vision
- Alerting individuals who are deaf or hearing impaired
- Providing minimal protection or rescue assistance
- Pulling a wheelchair
- Fetching items
- Alerting persons to impending seizures
- Providing emotional support to persons with disabilities who have a disability-related need for such support

Assistance animals that are needed as a reasonable accommodation for persons with disabilities are not considered pets, and thus, are not subject to the PHA’s pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705].

APPROVAL OF ASSISTANCE ANIMALS

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person’s disability and his or her need for the animal [PH Occ GB, p. 179].
A PHA may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

A PHA’s refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless [PH Occ GB, p. 179]:

There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation

There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

PHAs have the authority to regulate assistance animals under applicable federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

**HPHA Policy**

For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and HPHA approve a reasonable accommodation in accordance with the policies contained in Chapter 2. While not considered a pet, the service animal will suffice the one (1) animal per unit limit. A family may not have two (2) dogs, two (2) cats, or one (1) dog and one (1) cat calling one a pet and one a service animal.

**CARE AND HANDLING**

HUD regulations do not affect any authority a PHA may have to regulate assistance animals under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

**HPHA Policy**

Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident’s care or handling of an assistance animal violates these policies, HPHA
will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If HPHA determines that no such accommodation can be made, HPHA may withdraw the approval of a particular assistance animal.

HPHA will hold their resident responsible for all lease provisions, unless there is some addition reasonable accommodation that is requested and approved.

**PART II: PET POLICIES FOR ALL DEVELOPMENTS** [24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

**OVERVIEW**

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

**MANAGEMENT APPROVAL OF PETS**

**Registration of Pets**

PHAs may require registration of the pet with the PHA [24 CFR 960.707(b)(5)].

**HPHA Policy**

Pets must be registered with HPHA before they are brought onto the premises.

Registration includes documentation signed by a licensed veterinarian or state/local authority that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free. This registration must be renewed annually and will be coordinated with the annual reexamination date.

Pets will not be approved to reside in a unit until completion of the registration requirements.

**Refusal to Register Pets**

**HPHA Policy**

HPHA will refuse to register a pet if:
The pet is not a common household pet as defined in Section 10-II.C. below. Keeping the pet would violate any pet restrictions listed in this policy.

The pet owner fails to provide complete pet registration information, or fails to update the registration annually.

The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order.

HPHA reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If HPHA refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of HPHA’s decision. The notice will state the reason “refusal to register a pet” and will inform the family of their right to appeal the decision in accordance with HPHA’s grievance procedures.

**Pet Agreement**

**HPHA Policy**

Residents who have been approved to have a pet must enter into a pet agreement with HPHA, or the approval of the pet will be withdrawn.

The pet agreement is the resident’s certification that he or she has received a copy of HPHA’s pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with HPHA’s pet policy and applicable house rules may result in the withdrawal of HPHA approval of the pet or termination of tenancy.

**STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)]**

PHAs may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size
- Prohibitions on types of animals that the PHA classifies as dangerous, provided that such classifications are consistent with applicable state and local law
Prohibitions on individual animals, based on certain factors, including the size and weight of the animal

Requiring pet owners to have their pets spayed or neutered

PHA’s may not require pet owners to have any pet’s vocal cords removed.

**Definition of “Common Household Pet”**

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize PHAs to define the term [24 CFR 5.306(2)].

**HPHA Policy**

*Common household pet* means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes.

The following animals are not considered common household pets:

- Reptiles
- Rodents
- Insects
- Arachnids
- Wild animals or feral animals
- Pot-bellied pigs
- Animals used for commercial breeding
- Farm Animals, including but not limited to: chickens, roosters, geese, pigs, etc.
- Exotic animals and reptiles

**Pet Restrictions**

**HPHA Policy**

The following animals are not permitted:

- Any animal whose adult weight will exceed 40 pounds
- Dogs of the Pit Bull, Rottweiler, Chow, or Boxer breeds, Doberman Pinchers, and German Shepherds
Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations

Any animal not permitted under state or local law or code

**Number of Pets**

**HPHA Policy**

Residents may own only 1 animal, whether it is considered a service animal, or a family pet.

In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to 10 gallons. Such a tank or aquarium will be counted as 1 pet.

**Other Requirements**

**HPHA Policy**

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching 6 months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident’s annual reexamination.

**PET RULES**

Animal owners must maintain said animals responsibly, in accordance with PHA policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

**PET AREA RESTRICTIONS**

**HPHA Policy**

Pets or service animals must be maintained within the resident’s unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried and under the control of the resident or other responsible individual at all times.
Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit.

Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

Service animal and pet owners are not permitted to exercise pets or permit pets to deposit waste on project premises without properly cleaning and disposing of said waste.

**Designated Pet/No-Pet Areas [24 CFR 5.318(g), PH Occ. GB, p. 182]**

PHAs may designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Pet rules may also designate buildings, floors of building, or sections of building for residency by pet-owning tenants.

PHAs may direct initial tenant moves as may be necessary to establish pet and no-pet areas. The PHA may not refuse to admit, or delay admission of, an applicant on the grounds that the applicant’s admission would violate a pet or no-pet area. The PHA may adjust the pet and no-pet areas or may direct such additional moves as may be necessary to accommodate such applicants for tenancy or to meet the changing needs of the existing tenants.

PHAs may not designate an entire development as a no-pet area, since regulations permit residents to own pets.

**HPHA Policy**

With the exception of common areas as described in the previous policy, HPHA has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, HPHA has not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning tenants.

**Cleanliness**

**HPHA Policy**

The pet or service animal owner shall be responsible for the removal of waste from the exercise area by placing it in a sealed plastic bag and disposing of it in a trash container.

The pet and service animal owner shall take adequate precautions to eliminate any odors caused by animals within or around the unit and to maintain the unit in a sanitary condition at all times.
Litter box requirements:

- Pet and service animal owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.
- Litter shall not be disposed of by being flushed through a toilet.
- Litter shall not be deposited in trash chutes.
- Litter boxes shall be kept inside the resident's dwelling unit.

Alterations to Unit

**HPHA Policy**

Pet and service animal owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited.

Noise

**HPHA Policy**

Pet and service animal owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

Pet Care

**HPHA Policy**

Each pet and service animal owner shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet.

Each pet and service animal owner shall be responsible for appropriately training and caring for his/her pet, or service animal to ensure that the pet is not a nuisance or danger to other residents and does not damage HPHA property.
No animals may be tethered or chained inside or outside the dwelling unit at any time.

**Responsible Parties**

**HPHA Policy**

The pet and service animal owner will be required to designate a responsible party for the care of the animal if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the owner unable to care for the animal.

A resident who cares for another resident's animal must notify HPHA and sign a statement that they agree to abide by all of the pet rules.

**Pets Temporarily on the Premises HPHA**

**Policy**

Pets that are not owned by a tenant are not allowed on the premises. Residents are prohibited from feeding or harboring stray animals.

This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations, and approved by HPHA.

**Pet Rule Violations**

**HPHA Policy**

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement.

If a determination is made on objective facts supported by written statements, that a resident/pet, service animal owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

That the pet, or service animal owner has 15 calendar days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation
That the pet or service animal owner is entitled to be accompanied by another person of his or her choice at the meeting

That the animal owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the animal, or to terminate the animal owner's tenancy

**Notice for Pet Removal**

**HPHA Policy**

If the animal owner and HPHA are unable to resolve the violation at the meeting or the animal owner fails to correct the violation in the time period allotted by HPHA, HPHA may serve notice to remove the animal.

The notice will contain:

A brief statement of the factual basis for HPHA's determination of the pet rule that has been violated

The requirement that the resident /animal owner must remove the pet within 15 calendar days of the notice. Failure of the resident/household to do so, HPHA will take appropriate action with appropriate authorities to remove the pet.

A statement that failure to remove the pet may result in the initiation of eviction procedures

**Pet Removal**

**HPHA Policy**

If the death or incapacity of the animal owner threatens the health or safety of the animal, or other factors occur that render the owner unable to care for the animal, the situation will be reported to the responsible party designated by the animal owner.

If the responsible party is unwilling or unable to care for the animal, or if HPHA after reasonable efforts cannot contact the responsible party, WHA may contact the appropriate state or local agency and request the removal of the animal.

**Termination of Tenancy**
HPHA Policy

HPHA may initiate procedures for termination of tenancy (eviction) based on a pet rule violation if:

- The animal owner has failed to remove the animal or correct a pet rule violation within the time period specified
- The pet/service animal rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease

Emergencies

HPHA Policy

HPHA will take all necessary steps to ensure that animals that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals.

If it is necessary for HPHA to place the pet in a shelter facility, the cost will be the responsibility of the animal owner.

If the animal is removed as a result of any aggressive act on the part of the animal, the animal will not be allowed back on the premises.

PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS

OVERVIEW

This part describes the PHA’s policies for pet deposits and fees in elderly, disabled and mixed population developments. Policies governing deposits and fees in general occupancy developments are described in Part IV.

PET DEPOSITS

Payment of Deposit

The PHA may require tenants who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants of the project [24 CFR 5.318(d)(1)].
The maximum amount of pet deposit that may be charged by a PHA on a per dwelling unit basis, is the higher of the total tenant payment (TTP) or such reasonable fixed amount as the PHA may require. The PHA may permit gradual accumulation of the pet deposit by the pet owner [24 CFR 5.318(d)(3)].

The pet deposit is not part of the rent payable by the resident [24 CFR 5.31 8(d)(5)].

**HPHA Policy**

Pet owners are required to pay a pet deposit in addition to any other required deposits. The amount of the deposit is $100.00, and must be paid in full before the pet is brought on the premises.

**Refund of Deposit [24 CFR 5.318(d)(1)]**

The PHA may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant’s dwelling unit. The PHA must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the project or no longer owns or keeps a pet in the unit.

**HPHA Policy**

HPHA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit. The resident will be billed for any amount that exceeds the pet deposit. HPHA will identify and document actual costs, (labor time, materials, and replacement costs) and the resident pet owner will have those deducted from the deposit or billed for the amount that exceeds those costs.

HPHA will provide the resident with a written list of any charges against the pet deposit within 30 calendar days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, HPHA will provide a meeting to discuss the charges.

**OTHER CHARGES**

**Pet-Related Damages During Occupancy**

**HPHA Policy**

All reasonable expenses incurred by HPHA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:
The cost of repairs and replacements to the resident's dwelling unit
Fumigation of the dwelling unit
Repairs to common areas of the project
The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS

OVERVIEW
This part describes the PHA’s policies for pet deposits and fees for those who reside in general occupancy developments.

PET DEPOSITS
A PHA may require a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered [24 CFR 960.707(b)(1)].

A PHA that requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. The PHA must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements [24 CFR 960.707(d)].

Payment of Deposit

HPHA Policy

Pet owners are required to pay a pet deposit of $100 in addition to any other required deposits. The deposit must be paid in full before the pet is brought on the premises.

The pet deposit is not part of rent payable by the resident.
Refund of Deposit

HPHA Policy

HPHA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit. The resident will be billed for any amount that exceeds the pet deposit.

HPHA will identify and document actual costs, (labor time, materials, and replacement costs) and the resident pet owner will have those deducted from the deposit or billed for the amount that exceeds those costs.

The PHA will provide the resident with a written list of any charges against the pet deposit within 30 calendar days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the PHA will provide a meeting to discuss the charges.

NON-REFUNDABLE NOMINAL PET FEE

PHAs may require payment of a non-refundable nominal pet fee to cover the reasonable operating costs to the development relating to the presence of pets [24 CFR 960.707(b)(1)].

HPHA Policy

The HPHA will not require any additional pet fees at the general population site.

OTHER CHARGES

Pet-Related Damages During Occupancy

HPHA Policy

All reasonable expenses incurred by HPHA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

- The cost of repairs and replacements to the resident's dwelling unit
- Fumigation of the dwelling unit
- Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.
If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

**SMOKING POLICY**

Effective January 1, 2013 the Highland Park Authority (HPHA) owned units are smoke free.

The use of tobacco products in all public housing living units, indoor common areas and PHA administrative offices are banned. In addition the use of any devices that involve ignition and the burning of tobacco leaves such as cigarettes, cigars, pipes, electronic cigarettes, water pipes or hookahs are banned. Smoking is prohibited within 25 feet of any PHA owned properties.

Note:

The HPHA will not seek to terminate the residency of any tenant or participant due solely to their physician approved use of medical marijuana. However, smoking has been prohibited in HPHA owned buildings. Therefore, medical marijuana must be consumed in a form other than smoking.

**LEASING AND INSPECTIONS**

**PBV – HPHA OWNED UNITS**

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

**INTRODUCTION**

Leases are the basis of the legal relationship between the Owner (PHA) and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD’s regulations.

HUD rules also require the PHA to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy to ensure compliance with HQS. In addition, the PHA may require additional inspections in accordance with PHA policy.

This chapter is divided into two parts as follows:

**Part I: Leasing.** This part describes pre-leasing activities and the PHA’s policies pertaining to lease execution, modification, and payments under the lease.

**Part II: Inspections.** This part describes the PHA policies for inspecting dwelling units.
PART I: LEASING

OVERVIEW

An eligible family may occupy a PBV dwelling unit under the terms of a lease. The lease must meet all regulatory requirements, and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term.

Part I of this chapter contains regulatory information, when applicable, as well as the PHA policies governing leasing issues.

LEASE ORIENTATION

HPHA Policy

After unit acceptance but prior to occupancy, a HPHA representative will provide a lease orientation to the family. The head of household and spouse, co-tenant, and adult family member 18 or older are required to attend.

Orientation Agenda

- Lease & Grievance
- House Rules
- Lead Base Paint Notice
- Truth in Renting Booklet (NJ)
- Things You Should Know (HUD-1 140-OIG)
- Other material Appropriate

HPHA Policy

When families attend the lease orientation, they will be provided with:

- A copy of the lease
- A copy of the HPHA grievance procedure
A copy of the house rules
A copy of the HPHA schedule of maintenance charges
A copy of the pamphlet *Protect Your Family From Lead in Your Home*
A copy of *Things You Should Know* (HUD-1 140-OIG)

Topics to be discussed will include:

- Applicable deposits and other charges
- Review and explanation of lease provisions
- Unit maintenance and work orders
- HPHA reporting requirements
- Explanation of occupancy forms
- Recertification and Interim requirements
- Community service requirements
- Family choice of rent

At various times throughout occupancy, residents will be required to attend follow-up, refresher orientation sessions conducted at the site of their residency.

**EXECUTION OF LEASE**

The lease must be executed by the tenant and the PHA, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one PHA unit to another.

The lease must state the composition of the household as approved by the PHA (family members and any PHA-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

**HPHA Policy**

An appointment will be scheduled for the parties to execute the lease. The head of household, spouse or co-head, and all other adult members of the household 18 years and older, will be required to sign the public housing lease prior to admission. The head
of household will be provided a copy of the executed lease and HPHA will retain a copy in the resident’s file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to HPHA assistance. The live-in aide is only approved to live in the unit while serving as the attendant for the participant family member. HPHA will not entertain a request by a Live-in-Aide to be placed on the lease as a household member at any time.

The HPHA may schedule follow-up orientation sessions from time-to-time in order to refresh tenants’ knowledge of the lease requirements. Tenants must attend mandated orientation sessions.

MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and HPHA [24 CFR 966.4(a)(3)].

Modifications to the Lease Form

The PHA may modify its lease from time to time. However, the PHA must give residents 30 days advance notice of the proposed changes and an opportunity to comment on the changes. The PHA must also consider any comments before formally adopting the new lease [24 CFR 966.3].

After proposed changes have been incorporated into the lease and approved by the Board, each family must be notified at least 30 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

HPHA Policy

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.
Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions, and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each tenant; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

After the proposed revisions become effective they must be publicly posted in a conspicuous manner in the project office and must be furnished to applicants and tenants on request [24 CFR 966.5].

**HPHA Policy**

When HPHA proposes to modify or revise schedules of special charges or rules and regulations, HPHA will post a copy of the notice in the property site office, and will either hand deliver or mail a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

**Other Modifications**

**HPHA Policy**

The lease will be amended to reflect all changes in family composition.

If, for any reason, any member of the household ceases to reside in the unit, the lease will be amended and a revised lease will have to be signed.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

In accordance with Federal Regulations, HPHA must approve an adult addition to the family/household prior to their moving into the unit or being placed on the lease. Failure on the part of the tenant to make a timely request and report a desire to have an adult added to the family/household is a violation of the lease.

HPHA has sole discretion in approving any adult to be added to the tenant household.

The following issues will be considered, but will not result in automatic approval:

- **Marriage**
- **Occupancy Standards**
HPA will not consider adults over 18 who are not spouses or will be listed as co-head of household.

Someone in the household that has been residing in the unit as a “care-taker/Live-in-Aide” will never be considered to be placed on the lease.

SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

At the option of the PHA, the lease may require security deposits. The amount of the security deposit cannot exceed one month’s rent or a reasonable fixed amount as determined by the PHA. RAD PBV units managed by private concerns are subject to security deposits that may not exceed what is allowed by State law. The PHA may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit, or used for tenant services or activities.

HPA Policy

Residents must pay a security deposit to HPHA at the time of admission. The amount of the security deposit will be equal to the family’s total tenant payment at the time of move-in, or $100 (whichever is greater) and must be paid in full prior to occupancy.

HPHA will hold the security deposit for the period the family occupies the unit. HPHA will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, the HPHA will refund to the resident the amount of the security deposit (including interest earned on the security deposit), less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease. Please be aware that by law, the bank now mails the annual interest earned directly to each tenant. It is the tenant’s responsibility to be present for the move out inspection and will then have the opportunity to dispute any charges being assessed.
HPHA will provide the resident with a written list of any charges against the security deposit within 30 calendar days of the move-out inspection.

If the resident transfers to another unit, HPHA will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the unit the resident is vacating.

**PAYMENTS UNDER THE LEASE Rent Payments [24 CFR 966.4(b)(1)]**

Families must pay the amount of the monthly tenant rent determined by the PHA in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and the PHA must give written notice stating any change in the amount of tenant rent and when the change is effective.

**HPHA Policy**

The tenant rent is due and payable at the HPHA-designated location and/or methods approved by HPHA on the first of every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter. As a courtesy, the HPHA will not assess a late fee as long as the rent is received by the fifth of the month. If the fifth falls on a weekend or holiday, a late fee will be assessed to anyone whose rent is received later than 8:30 AM the day following such event. All payments must be check or money order. Cash will never be accepted.

Security deposits must be paid with a money order.

If a family’s tenant rent changes, HPHA will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

**Late Fees and Nonpayment**

At the option of the PHA, the lease may provide for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4(b)(3)].

The lease must provide that late payment fees are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA...
must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

**HPHA Policy**

If the family fails to pay their rent by the fifth day of the month, and HPHA has not agreed to accept payment at a later date, a 14 day Notice to Vacate will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.

In addition, if the resident fails to make payment by the end of office hours on the fifth day of the month, a late fee of $25 will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, WHA may not take action for nonpayment of the fee until the conclusion of the grievance process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee of $35 will be charged to the family. The fee will be due and payable 14 days after billing.

HPHA considers late payments made three (3) times in a twelve (12) month period a lease violation.

Tenants who pay with a check that is not honored will be required to pay with a money order thereafter.

**Excess Utility Charges**

If the PHA charges the tenant for consumption of excess utilities, the lease must state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities is permissible only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances [24 CFR 966.4(b)(2)].

Schedules of special charges for utilities that are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for excess utility consumption are not due and collectible until two weeks after the PHA gives written notice of the charges. The written
notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

**HPHA Policy**

The formerly assessed excess utility charges for air conditioners was included in the CHAP proposal and the HPHA was granted higher rents to include the estimated cost for said air conditioners. Therefore no family residing in a HPHA owned PBV unit will be charged an excess utility fee for an air conditioner. However, should they engage the use of another type of major appliance such as an extra refrigerator or freezer, the family will be charged an excess utility fee, as noted on the published schedule of maintenance charges.

When applicable, families will be charged for excess utility usage according to HPHA current posted schedule. Notices of excess utility charges will be posted on each tenant’s monthly statement. They will also be advised annually at each re-certification about the generation of the charges and their right to grieve such charges. They will sign acknowledging said advice and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, HPHA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of excess utility charges is a violation of the lease and is grounds for eviction.

**Maintenance and Damage Charges**

If the PHA charges the tenant for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges [24 CFR 966.4(b)(2)].

Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].
The lease must provide that charges for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

**HPHA Policy**

When applicable, families will be charged for maintenance and/or damages according to HPHA current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, HPHA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

**Current Maintenance Charges**

are included as an addendum to the HPHA Lease and HPHA will update on an annual basis as appropriate.

**PART II: INSPECTIONS**

**OVERVIEW**

HUD rules require the PHA to inspect each dwelling unit prior to move-in, at move-out, and annually, or bi-annually during occupancy. In addition, the PHA may require additional inspections, in accordance with PHA Policy. This part contains the PHA’s policies governing inspections, notification of unit entry, and inspection results.
TYPES OF INSPECTIONS Move-In

Inspections [24 CFR 966.4(i)]

The lease must require the PHA and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the PHA and the resident, must be provided to the tenant and be kept in the resident file.

HPHA Policy

The Head of Household, spouse or co-head must attend the initial move-in inspection and sign the inspection form.

HPHA may also photograph the condition of the unit. If there are any repairs or issues that must be addressed in the unit concerning safe or sanitary conditions, HPHA will issue appropriate work order and complete the work in a timely manner.

Move-Out Inspections [24 CFR 966.4(i)]

The PHA must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes, unless the tenant vacates without notice to the PHA. The PHA must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

HPHA Policy

When HPHA has notification from a tenant on intent to move, HPHA will notify the tenant of the date of the move-out inspection and invite the tenant to be present during the inspection. If the departing tenant is not available or responsive, WHA will proceed with the move-out inspection as scheduled. In other cases, (eviction, skip, death, abandonment) HPHA will perform the move-out inspection based on its schedule without any notice to the tenant.

When applicable, HPHA will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 30 calendar days of conducting the move-out inspection.

Annual Inspections
Under the PBV System (PBV), the PHA is required to inspect all occupied units biennially using HUD's Housing Quality Standards (HQS) [24 CFR 902.43(a)(4)].

**HPHA Policy**

HPHA will conduct biennial inspections under HUD HQS standards.

**Quality Control Inspections**

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame.

**HPHA Policy**

Supervisory quality control inspections will be conducted in accordance with HPHA policies. Each property manager sets a schedule for a percentage of work orders and other maintenance work to be reviewed for quality assurance and control.

**Special Inspections**

**HPHA Policy**

HPHA has discretion for staff to conduct a special inspection for any of the following reasons:

- Housekeeping
- Infestation
- Unit condition
- Suspected lease violation
- Preventive maintenance & pest control
- Routine maintenance
- There is reasonable cause to believe an emergency exists **Other**

**Inspections**

**HPHA Policy**
Building exteriors, grounds, common areas and systems will be inspected in accordance with federal requirements for safety, sanitary conditions, as well as, curb appeal of the property. Each property manager is responsible for these inspections on a regular basis, but no less than once per month.

NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j) (1)]

The PHA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of the PHA entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

HPHA Policy

HPHA will notify the resident in writing at least 48 hours prior to any non-emergency inspection.

For regular annual inspections, the family will receive at least 2 weeks written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for HPHA to enter the unit.

Work order requests by management do not require notice to the resident.

Emergency Entries [24 CFR 966.4(j) (2)]

HPHA may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, HPHA will leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.
Scheduling of Inspections

**HPHA Policy**

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify HPHA at least 24 hours prior to the scheduled inspection. HPHA has the right with proper notification to enter the unit when a resident is not present for a required inspection.

Attendance at Inspections

Residents are required to be present for move-in inspections [24 CFR 966.4(i)]. There is no such requirement for other types of inspections.

**HPHA Policy**

Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if he or she wishes.

If no one is at home, the inspector will enter the unit, conduct the inspection. HPHA will notify the resident of the results, depending on the type of inspection conducted.

INSPECTION RESULTS

The PHA is obligated to maintain dwelling units and the project in decent, safe and sanitary condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

**Emergency Repairs [24 CFR 966.4(h)]**

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify the PHA of the damage, and the PHA must make repairs within a reasonable time frame.

If the damage was caused by a household member or guest, the PHA must charge the family for the reasonable cost of repairs. The PHA may also take lease enforcement action against the family.

If the PHA cannot make repairs quickly, the PHA must offer the family standard alternative accommodations. If the PHA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.
HPHA Policy

When conditions in the unit are hazardous to life, health, or safety, HPHA will make repairs or otherwise abate the situation within 24 hours.

Defects hazardous to life, health or safety include, but are not limited to, the following: Any condition that jeopardizes the security of the unit

Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling

Natural or LP gas or fuel oil leaks

Any electrical problem or condition that could result in shock or fire

Absence of a working heating system when outside temperature is below 55 degrees Fahrenheit

Utilities not in service, including no running hot water Conditions that present the imminent possibility of injury Obstacles that prevent safe entrance or exit from the unit

Absence of a functioning toilet in the unit

Inoperable smoke detectors

Carbon Monoxide detectors

Non-emergency Repairs

HPHA Policy

HPHA will correct non-life threatening health and safety defects within 30 calendar days of the inspection date. If HPHA is unable to make repairs within that period due to circumstances beyond the HPHA control (e.g. required parts or services are not available, weather conditions, etc.) HPHA will notify the family of an estimated date of completion.

The family must allow HPHA access to the unit to make repairs.

Resident-Caused Damages

HPHA Policy
Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.G., Maintenance and Damage Charges.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

**Housekeeping**

**HPHA Policy**

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, HPHA will provide proper notice of a lease violation.

A re-inspection will be conducted within 15 calendar days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a re-inspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

Notices of lease violation will also be issued to residents who purposely disengage the unit’s smoke detector and carbon monoxide detector. Residents will be charged $25 each for missing batteries or missing detectors. Only one warning will be given. A second incidence will result in lease violation and eviction.
Chapter 18
ENTERPRISE INCOME VERIFICATION (EIV)
SECURITY POLICY AND PROCEDURES

INTRODUCTION

THE ENTERPRISE INCOME VERIFICATION SYSTEM (EIV)

The EIV system is intended to provide a single source of income-related data to PHAs for use in verifying the income reported by participants in the various assisted housing programs. The Office of Public and Indian Housing (PIH) is responsible for administering and maintaining the EIV system.

18-I.A. TYPES OF UPFRONT VERIFICATION OF INCOME PROVIDED BY EIV The EIV system compares the participant income data obtained from various sources including:

- Participant-supplied income data captured on Form HUD-50058 and maintained in the PIC databases;
U.S. Department of Health and Human Services, National Directory of New Hires (NDNH) data. NDNH becomes the single source for wage, unemployment insurance benefit information, and the new hire (employment) information;

Social Security and Supplemental Security Income from the Social Security Administration (information formerly accessed through TASS); and

User profile information from the PIC database.

18-I.B. HPHA EIV PARTICIPANT DATA IS USED FOR

EIV data is the first level in the hierarchy of income verification. The EIV data may be used in the following way:

- To verify a participant’s eligibility for participation in a HUD rental assistance program and to determine the level of assistance the participant is entitled to receive; and

- No adverse action can be taken against a participant until the PHA has independently verified the EIV, and the participant has been granted an opportunity to contest any adverse findings through the established grievance hearing or other legal procedures (Chapter 7 Verification Procedures).

Applicability

The procedures in this document apply to all HPHA staff that access EIV data.

Purpose

The purpose of this document is to establish the HPHA’s policies and procedures to assure that the practices, controls and safeguards used by the HPHA are in compliance with the Federal laws regarding the protection of this information.

Privacy Act

The data provided via the EIV system will be protected to ensure that it is only used for official purposes and not disclosed in any way that would violate the privacy of the individuals represented in the system data. Privacy of data and data security for computer systems are covered by a variety of Federal laws and regulations. The Privacy Act of 1974 as amended, 5
U.S.C. 552 (a), is one such regulation. The full text of the Privacy Act can be accessed at http://www.usdoj.gov/fois/privstat.htm.

18-I.C. EXAMPLES OF PRIVACY ACT VIOLATIONS

The HPHA will not rely entirely upon staff to read and understand the Privacy Act. To ensure that staff has a complete understanding of the Privacy Act and how seemingly harmless actions may be violations, examples of Privacy Act violations will be provided during security awareness training. The following example of a security violation was explained during the HUD Satellite Broadcast introducing the EIV system:

EIV data can only be viewed by authorized PHA staff and the individual adult who the information pertains to. This means that EIV data for an adult household member in a participant family cannot be shared with another adult household member of the participant family (even the head of household) unless that family member is present or signs a waiver authorizing the other family member to view their EIV information. The Privacy Act protects the privacy of each adult family member from any unauthorized person viewing their EIV data, even another family member. However, EIV data for minor children may be viewed by the head of household.

18-I.D. WHA EIV ADMINISTRATOR(S)

A HPHA EIV Administrator(s) is responsible for ensuring that proper technical, physical, and administrative safeguards are in place and enforced. The duties of the HPHA EIV Administrator(s) are as follows:

- Conducts quarterly reviews of all User IDs issued to determine if the users still have a valid need to access the EIV data and modifies or revokes access rights as appropriate;
- At the request of the Director, updates the EIV Security Policies and Procedures;
- Maintains a list of users who can access the restricted areas;
- Assures that a copy of Form HUD-9886 has been signed by each member of the household, age 18 years or older, and is in the household file;
- Ensures compliance with the PHA security policies and procedures outlined in this document;
- Communicates security information and requirements to appropriate personnel, including coordinating and conducting security awareness training sessions;
• Ensures that any infractions of security procedures are promptly reported to the Department Director for investigation and enforcement; and

• Ensures that all EIV records and forms (i.e. signed user agreements) are kept and updated as needed.

18-I.E. SECURITY AWARENESS TRAINING

Security awareness training is a crucial aspect of ensuring the security of the EIV system and data. Users and potential users will be made aware of the importance of respecting the privacy of data, following established procedures to maintain privacy and security, and notifying management in the event of a security or privacy violation.

In addition to security awareness training, the HPHA EIV Administrator(s) will communicate security information and requirements to appropriate personnel. Security awareness training will be provided to each employee upon granting access to the EIV system. Thereafter, annual security awareness refresher training will be provided to each employee with EIV access.

The HPHA EIV Administrator(s) will conduct security awareness training in the following manner:

• The trainer and the employee will both sign a certification that EIV security training has been provided. The training certification and a record of the training material provided at the awareness training will be kept in the HPHA EIV Security Binder;

• At the end of the training, each employee will also sign the EIV Rules of Behavior and User Agreement Form. One copy will be given to the employee to be placed in their desk manual and one copy will be retained in the HPHA EIV Security Binder. The forms will be updated once a year at the refresher training;

• The HPHA EIV Administrator(s) will limit the security awareness training to security awareness and compliance issues only. Instructing staff on how to navigate in the EIV modules and how to run reports or to interpret data is the responsibility of the Supervisor or designated trainer; and

• Examples of potential Privacy Act and security violations will be provided during the training.

18-I.F. TECHNICAL SAFEGUARDS

The purpose of these technical safeguards is as follows:
• To reduce the risk of a security violation related to the EIV system’s software, network, or applications;
• To identify and authenticate all users seeking access to the EIV system;
• To deter and detect attempts to access the system without authorization;
• To monitor the user activity of the EIV system;
• Each user is required to have their own User ID and Password;
• The User ID identifies the PHA’s and tenant information that the user is authorized to access;
• Passwords are encrypted and the password file is protected from unauthorized access;
• The system forces all users to change their password every 21 days and limit the reuse of previous passwords;
• After three unsuccessful attempts to log in, the User ID is locked and the user must contact the HUD System Administrator to have the password reset; and
• Online warning messages that inform the user of the civil and criminal penalties associated with unauthorized use of the EIV system will be displayed.

In addition, the HPHA will follow the following technical security requirements:

• HPHA will not save EIV data to a computer hard drive or any other automated information system (i.e. network drive, disk or CD);
• HPHA staff will not leave their computer unattended with EIV data displayed on the screen; and
• HPHA staff will not log in on another user’s ID.

18-I.G. ADMINISTRATIVE SAFEGUARDS

The HPHA EIV Administrator(s) will maintain security-related records and monitor programmatic security issues. They will also adhere to the following administrative safeguards:

• Ensure that all users who have access to EIV data have an Access Authorization Form signed by the Executive Director on file;
• Ensure that all users who access the EIV system have a current signed Rules of Behavior and User Agreement on file;
• Conduct quarterly reviews of all User IDs to determine if the user still has a valid need to access the EIV data; and
• Ensure the access rights are modified or revoked as appropriate.

The HPHA EIV Administrator(s) will maintain the following EIV security records and forms:

• EIV Rules of Behavior and User Agreement Forms;
• EIV Access Authorization Forms;

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• EIV Disposal Records List;
• EIV security violation information;
• EIV Security Awareness Training Records;
• Records of internal audits to ensure that Form HUD-9886 has been signed by each adult member of the household and is kept in the Confidential Resident File; and
• A record of all users who have approved access to EIV data, including the date access was granted and the date access was terminated.

18-I.H. PHYSICAL SAFEGUARDS

The purpose of physical safeguards is to provide barriers between unauthorized persons and documents containing private data.

Confidential Participant Files

All EIV data will be printed and saved in the confidential participant file. Files containing EIV data must be protected at all times when not in use.

Locking File Cabinets for Confidential Files

Even though the HPHA has a monitored office building, persons unauthorized to view EIV data, such as maintenance staff, janitorial staff, or temporary staff, have access to the office spaces. In office settings where any staff other than the staff responsible for the participant file or their supervisor has access to the office, all confidential participant files will be kept in locking file cabinets. The cabinets will be locked whenever the responsible staff leaves the workspace.

Hard Copy Security Violations

The HPHA will handle EIV data in such a manner that it does not become misplaced or available to unauthorized personnel. Any confidential participant file may contain EIV data. Therefore the file cannot be viewed by any personnel that are not expressly authorized (i.e. staff in charge of the file, the supervisor of the staff in charge of the file, the HPHA EIV Administrator(s), or the HPHA Internal Auditor) and who do not have both an Access Authorization Form and a Rules of Behavior and User Agreement on file with the HPHA EIV Security Officer(s).

Viewing the EIV information of a participant outside of a staff’s caseload assignment is considered a security violation for both the staff unlawfully viewing the EIV information and for the staff that left the information unattended. Unless a supervisor has specifically authorized staff to view another staff’s EIV data, this is expressly prohibited.
Disposal of EIV Information

EIV data should be destroyed as soon as it has served its purpose or as prescribed by the program administrator’s policies and procedures. All EIV originals and any documents created in association with their use should be shredded to prevent the reconstruction of the contents.

18-I.I. REPORTING IMPROPER DISCLOSURES

Recognition, reporting and disciplinary action in response to security violations are crucial to successfully maintaining the security and privacy of the EIV system.

Security violations may include the following:

- Disclosure of private data;
- Attempts to access unauthorized data; and
- Sharing of User IDs and passwords.

Upon discovery of a possible improper disclosure of EIV information or another security violation by a HPHA employee or any other person, the individual making the observation or receiving the information should contact the HPHA EIV Administrator(s). The HPHA EIV Administrator(s) will document all improper disclosures in writing on a security disclosure form, providing details including who was involved, HPHA was disclosed, how the disclosure occurred, and where it occurred.

The following contacts will be made:

- The HPHA EIV Administrator(s) will contact and provide the Director of Section 8 or Public Housing with the written documentation of the security violation;
- The Administrator or his designee will provide the HUD Field Office Public Housing Director with the written documentation; and
- The HUD Field Office Public Housing Director, upon receipt of the documentation, will make a determination regarding the referral and provision of the written documentation to the Headquarters EIV Coordinator and/or Public Housing EIV Security Officer(s) for further review and follow-up action.

18-I.J. SAFEGUARDS PROVIDED BY THE PRIVACY ACT

The Privacy Act provides safeguards for individuals against invasion of privacy by requiring Federal agencies, except as otherwise provided by law or regulation, to:
1. Permit individuals to know HPHA records pertaining to them are collected, maintained, used or disseminated;
2. Allow individuals to prevent records pertaining to them (obtained for a particular purpose) from being used or made available for another purpose without their consent;
3. Permit individuals to gain access to information pertaining to them, obtain a copy of all or any portions thereof, and correct or amend such records;
4. Collect, maintain, use or disseminate personally identifiable information in a manner that ensures the information is current and accurate, and that adequate safeguards are provided to prevent misuses of such information;
5. Permit exemption from the requirements of the Act only where an important public policy need exists as determined by specific statutory authority; and
6. Be subject to a civil suit for any damages that occur as a result of action that violates any individual’s rights under this Act.

GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>AAF</td>
<td>Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)</td>
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<td>ACC</td>
<td>Annual contributions contract</td>
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<tr>
<td>ADA</td>
<td>Americans with Disabilities Act of 1990</td>
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<tr>
<td>BR</td>
<td>Bedroom</td>
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<tr>
<td>BOC</td>
<td>Board of Commissioners</td>
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<tr>
<td>CDBG</td>
<td>Community Development Block Grant (Program)</td>
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<tr>
<td>CFR</td>
<td>Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)</td>
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<tr>
<td>CPI</td>
<td>Consumer price index (published monthly by the Department of Labor as an inflation indicator)</td>
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</tbody>
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EBLL  Elevated Blood Lead Levels
FDIC  Federal Deposit Insurance Corporation
FHA  Federal Housing Administration
FICA  Federal Insurance Contributions Act (established Social Security taxes)
FMR  Fair market rent
FR  Federal Register
FSS  Family Self-Sufficiency (Program)
FY  Fiscal year
FYE  Fiscal year end
GAO  Government Accountability Office
GR  Gross rent
HAP  Housing assistance payment
HCV  Housing Choice Voucher
HPHA  Highland Park Housing Authority
HQS  Housing Quality Standards.
HUD  Department of Housing and Urban Development
HUDCLIPS  HUD Client Information and Policy System
IG  (HUD Office of) Inspector General
IPA  Independent public accountant
IRA  Individual Retirement Account
IRS  Internal Revenue Service
JTPA  Job Training Partnership Act
LEP  Limited English Proficiency
LBP  Lead-based paint
MSA  Metropolitan statistical area (established by the U.S. Census Bureau)
MTCS  Multi-family Tenant Characteristics System (now the Form HUD-50058 sub-module of the PIC system)
<table>
<thead>
<tr>
<th>NOFA</th>
<th>Notice of funding availability</th>
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<tr>
<td>OMB</td>
<td>Office of Management and Budget</td>
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<td>PASS</td>
<td>Plan for Achieving Self-Support</td>
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<tr>
<td>PBV</td>
<td>Project Based Vouchers</td>
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<td>PHA</td>
<td>Public housing agency</td>
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<tr>
<td>PHRA</td>
<td>Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)</td>
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<td>PIC</td>
<td>PIH Information Center</td>
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<td>PIH</td>
<td>(HUD Office of) Public and Indian Housing</td>
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<td>PS</td>
<td>Payment standard</td>
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<td>QC</td>
<td>Quality control</td>
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<tr>
<td>QHWRA</td>
<td>Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)</td>
</tr>
<tr>
<td>RAD</td>
<td>Rental Assistance Demonstration</td>
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<tr>
<td>REAC</td>
<td>(HUD) Real Estate Assessment Center</td>
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<td>RFP</td>
<td>Request for proposals</td>
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<tr>
<td>RFTA</td>
<td>Request for tenancy approval</td>
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<tr>
<td>RIGI</td>
<td>Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)</td>
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<tr>
<td>SEMAP</td>
<td>Section 8 Management Assessment Program</td>
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<td>SRO</td>
<td>Single room occupancy</td>
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<td>SSA</td>
<td>Social Security Administration</td>
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<td>SSI</td>
<td>Supplemental security income</td>
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<tr>
<td>TANF</td>
<td>Temporary assistance for needy families</td>
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<td>TR</td>
<td>Tenant rent</td>
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<td>TTP</td>
<td>Total tenant payment</td>
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<td>UA</td>
<td>Utility allowance</td>
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B. GLOSSARY OF SUBSIDIZED HOUSING TERMS

**Absorption.** In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

**Accessible.** The facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps.

**Adjusted Income.** Annual income, less allowable HUD deductions.

**Adjusted Annual Income.** Same as Adjusted Income.

**Administrative fee.** Fee paid by HUD to the PHA for administration of the program. See §982.152.

**Administrative fee reserve** (formerly “operating reserve”). Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See §982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

**Administrative plan.** The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA’s board and included as a supporting document to the PHA Plan. See §982.54.

**Admission.** The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

**Amortization payment.** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

**Annual contributions contract (ACC).** The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.
**Annual Income.** The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

**Applicant (applicant family).** A family that has applied for admission to a program but is not yet a participant in the program.

**Area Exception Rent.** An amount that exceeds the published FMR. See §982.504(b).

**“As-paid” States.** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

**Assets.** (See Net Family Assets.)

**Auxiliary aids.** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance.

**Budget authority.** An amount authorized and appropriated by the Congress for payment to Has under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

**Child.** A member of the family other than the family head or spouse who is under 18 years of age.

**Child care expenses.** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

**Citizen.** A citizen or national of the United States.

**Co-head.** An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

**Common space.** In shared housing: Space available for use by the assisted family and other occupants of the unit.

**Computer match.** The automated comparison of data bases containing records about individuals.
**Confirmatory review.** An on-site review performed by HUD to verify the management performance of a PHA.

**Consent form.** Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

**Congregate housing.** Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see §982.606 to §982.609.

**Contiguous MSA.** In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

**Continuously assisted.** An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

**Contract.** (See Housing Assistance Payments Contract.)

**Contract authority.** The maximum annual payment by HUD to a PHA for a funding increment.

**Cooperative** (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see §982.619.

**Covered families.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

**Dating violence.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship
**Dependent.** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

**Disability assistance expenses.** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

**Disabled family.** A family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

**Disabled person.** See Person with Disabilities.

**Displaced family.** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

**Domestic violence.** Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

**Domicile.** The legal residence of the household head or spouse as determined in accordance with State and local law.

**Drug-related criminal activity.** As defined in 42 U.S.C. 1437 f(f)(5).

**Drug-trafficking.** The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

**Economic Self-Sufficiency Program.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment).
Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see §5.603(c).

**Elderly family.** A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Elderly Person.** An individual who is at least 62 years of age.

**Eligible Family (Family).** A family that is income eligible and meets the other requirements of the Act and Part 5 of 24 CFR.

**Employer Identification Number (EIN).** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

**Evidence of citizenship or eligible status.** The documents which must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)

**Extremely Low Income Family.** A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (CFR 5.603)

**Facility.** All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.

**Fair Housing Act** means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988

**Fair market rent (FMR).** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR part 888.

**Family.** Includes but is not limited to the following, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)

- An elderly family or a near-elderly family

- A displaced family
- The remaining member of a tenant family

- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

**Family rent to owner.** In the voucher program, the portion of rent to owner paid by the family.

**Family self-sufficiency program** (FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

**Family share.** The portion of rent and utilities paid by the family. For calculation of family share, see §982.515(a).

**Family unit size.** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

**Federal agency.** A department of the executive branch of the Federal Government.

**Foster Child Care Payment.** Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

**Full-time Student.** A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (*CFR 5.603*)

**Funding increment.** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

**Gross rent.** The sum of the rent to owner plus any utility allowance.

**Group home.** A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see §982.610 to §982.614.

**Handicap.** Any condition or characteristic that renders a person an individual with handicaps. See 24CFR 8.3.

**Handicap Assistance Expense.** See “Disability Assistance Expense.”

**HAP contract.** Housing assistance payments contract. (Contract). A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

**Head of household.** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.
**Housing assistance payment.** The monthly assistance payment by a PHA, which includes:
(1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

**Housing agency (HA).** A State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. (“PHA” and “HA” mean the same thing.)

**Housing Quality Standards.** The HUD minimum quality standards for housing assisted under the voucher program.

**HUD.** The Department of Housing and Urban Development.

**Immediate family member.** A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or any other person living in the household of that person and related to that person by blood and marriage.

**Imputed Asset.** Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

**Imputed Income.** HUD passbook rate multiplied by the total cash value of assets. Calculation used when net family assets exceed $5,000.

**Imputed welfare income.** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family’s annual income and therefore reflected in the family’s rental contribution.

**Income.** Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

**Income For Eligibility.** Annual Income.

**Income information** means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources

- All information about wages, as defined in the State's unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a State unemployment compensation law

- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

**Individual with handicaps.** Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

**Initial PHA.** In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

**Initial payment standard.** The payment standard at the beginning of the HAP contract term.

**Initial rent to owner.** The rent to owner at the beginning of the HAP contract term.

**Jurisdiction.** The area in which the PHA has authority under State and local law to administer the program.

**Landlord.** Either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

**Lease.** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

**Live-in aide.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

**Local Preference.** A preference used by the PHA to select among applicant families.

**Low Income Family.** A family whose income does not exceed 80% of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80% for areas with unusually high or low incomes.
**Manufactured home.** A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type: see §982.620 and §982.621.

**Manufactured home space.** In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See §982.622 to §982.624.

**Medical expenses.** Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of annual income.

**Merger Date.** October 1, 1999.

**Minor.** A member of the family household other than the family head or spouse, who is under 18 years of age.

**Mixed family.** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Monthly adjusted income.** One twelfth of adjusted income.

**Monthly income.** One twelfth of annual income.

**Mutual housing.** Included in the definition of “cooperative.”

**National.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**Near-elderly family.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

**Net family assets.** (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust.
Any income distributed from the trust fund shall be counted when determining annual income under §5.609.

- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

**Noncitizen.** A person who is neither a citizen nor national of the United States.

**Notice of Funding Availability (NOFA).** For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

**Office of General Counsel (OGC).** The General Counsel of HUD.

**Owner.** Any person or entity with the legal right to lease or sublease a unit to a participant.

**PHA Plan.** The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

**PHA’s quality control sample.** An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

**Participant (participant family).** A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

**Payment standard.** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

**Persons With Disabilities.** A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and
“Individual with handicaps” as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See “Individual with handicaps”

**Portability.** Renting a dwelling unit with Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

**Premises.** The building or complex in which the dwelling unit is located, including common areas and grounds.

**Private space.** In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

**Processing entity.** The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the Section 8 program, the “processing entity” is the “responsible entity.”

**Project owner.** The person or entity that owns the housing project containing the assisted dwelling unit.

**Public Assistance.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

**Public Housing Agency (PHA).** Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

**Reasonable rent.** A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

**Receiving PHA.** In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

**Recertification.** Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

**Remaining Member of Tenant Family.** Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).
Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

Residency Preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (“residency preference area”).

Residency Preference Area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing and the Section 8 tenant-based assistance, project-based certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

Secretary. The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937.

Section 8 covered programs. All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under section 202 of the Housing Act of 1959.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended

Section 214 covered programs is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §5.500.

Security Deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

Set-up charges. In a manufactured home space rental: Charges payable by the family for assembling, skirting and anchoring the manufactured home.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type: see §982.615 to §982.618.

Single Person. A person living alone or intending to live alone.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see §982.602 to §982.605.
**Social Security Number (SSN).** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person’s earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

**Special admission.** Admission of an applicant that is not on the PHA waiting list or without considering the applicant’s waiting list position.

**Special housing types.** See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

**Specified Welfare Benefit Reduction.** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

**Spouse.** The marriage partner of the head of household.

**Stalking.** To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

**State Wage Information Collection Agency (SWICA).** The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

**Subsidy standards.** Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Suspension.** Stopping the clock on the term of a family’s voucher after the family submits a request for approval of the tenancy. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension. This practice is also called “tolling”.

**Tenancy Addendum.** For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.
Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent to owner. See “Family rent to owner”.

Term of Lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

Total Tenant Payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unit. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

Vacancy Loss Payments. (Applies only to pre-10/2/95 HAP Contracts in the Rental Certificate Program). When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the contract rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

Very Low Income Family. A low-income family whose annual income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.
**Voucher** *(Housing Choice Voucher).* A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

**Voucher holder.** A family holding a voucher with an unexpired term (search time).

**Voucher program.** The housing choice voucher program.

**Waiting list admission.** An admission from the PHA waiting list.

**Welfare assistance.** Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. FOR THE FSS PROGRAM *(984.103(b)), “welfare assistance” includes only cash maintenance payments from Federal or State programs designed to meet a family’s ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.*

**Welfare-to-work (WTW) family.** A family assisted by a PHA with Voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).